

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

DLB - Dn = 9- R
12-3-68
(41)

United States Court of Appeals
for the District of Columbia Circuit

FILED OCT 7 1968

Nathan J. Paulson
CLERK

461

IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, *Petitioner*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

SARKES TARZIAN, INC., *Intervenor*

On Petition to Review an Order of
The National Labor Relations Board

APPENDIX OF THE PARTIES

SHERMAN AND DUNN
LAURENCE J. COHEN
1200 -15th Street, N.W.
Washington, D.C. 20005
Counsel for Petitioner

LIST OF APPENDIX SECTIONS

- Section 1. Pre-hearing Order.
- Section 2. Pre-hearing Conference Stipulation.
- Section 3. Decision Order and Certification of Results of Election (and Trial Examiner's Decision).
- Section 4. Transcript.
- Section 5. General Counsel's Exhibits.
- Section 6. Respondent's Exhibits.

PREHEARING ORDER

7-5568

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,932

September Term, 1967

International Brotherhood of
Electrical Workers, AFL-CIO,
Petitioner,

v.

National Labor Relations Board,
Respondent.

Sarkes Tarzian, Inc.,
Intervenor.

United States Court of Appeals
for the District of Columbia Circuit

FILED JUL 3 1968

Nathan J. Paulson
CLERK

Before: Robinson, Circuit Judge,
in Chambers.

PREHEARING ORDER

Counsel for the parties in the above-entitled case having submitted their stipulation pursuant to Rule 38(k) of the General Rules of this Court, and the stipulation having been considered, the stipulation is approved, and it is

ORDERED that the stipulation shall control further proceedings in this case unless modified by further order of this court, and that the stipulation and this order shall be printed in the joint appendix herein.

PREHEARING CONFERENCE STIPULATION

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

INTERNATIONAL BROTHERHOOD OF :
ELECTRICAL WORKERS, AFL-CIO,

Petitioner, :

v.

No. 21,932

NATIONAL LABOR RELATIONS BOARD, :

Respondent, :

and

SARKES TARZIAN, INC., :

Intervenor. :

PREHEARING CONFERENCE STIPULATION

Pursuant to Rule 38(k) of the Rules of this Court, the parties,
subject to the Court's approval, hereby stipulate and agree as follows:

I. THE ISSUES

The questions presented are:

1. Whether the Board erred in refusing to find that the
Company violated Section 8(a)(1) of the Act by promulgating its rule
against "relaxation" for night shift maintenance men and by engaging in
surveillance of certain of its employees.

2. Whether the Board erred in refusing to find that the
Company violated Section 8(a)(3) and (1) of the Act by discriminatorily
discharging and refusing to reinstate three employees.

II. JOINT APPENDIX

1. The record in this case shall be reduced to a joint appendix to be comprised of the materials each party may designate, which shall be prepared by the xerox method provided for in Rule 16(j) of this Court. Each party will pay the printer directly for its share of the printing cost and mailing expenses. The Union shall include in its designation the Board's Decision and Order, the Trial Examiner's Decision, this stipulation and the Court's order thereon. If the Board and the employer designate the same materials, they shall divide the costs of reproducing that material.

2. The Union shall serve its designation at the time it serves its brief upon the Board and Company; and the Board and Company shall serve its designation within ten days thereafter. Pursuant to Rule 16(j), seven copies of the joint appendix will be filed with the Court. The Union shall be responsible for reproducing and filing the joint appendix, which it will file by the date its reply brief is due.

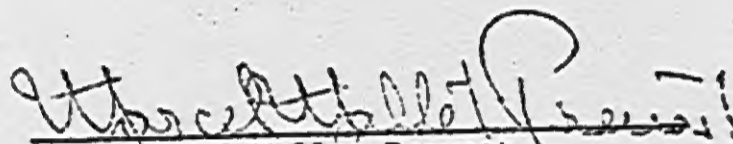
3. It is further agreed that the parties and the Court may refer to any portions of the original transcripts or record or exhibits herein which have not been reproduced, it being understood that any portions of the record thus referred to will be reproduced in a supplemental joint appendix if the Court so directs.

III. THE BRIEFS

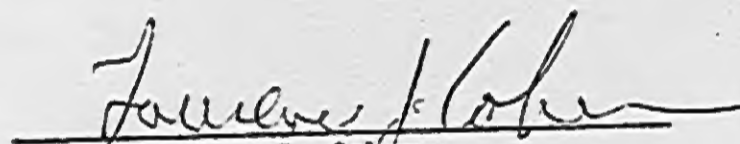
1. The parties agree that the briefs may initially be filed in typewritten form. Printed copies of all briefs shall be filed and

served by the date the reply briefs are due. Since the xerox method will be used for the preparation of the joint appendix, record references in the briefs shall follow the pagination of the original transcript and exhibits.

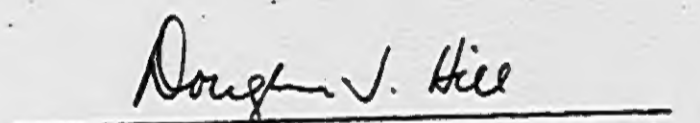
Dated at Washington, D. C.,
this 19th day of June, 1968.


Marcel Mallet-Prevost
Assistant General Counsel
NATIONAL LABOR RELATIONS BOARD

Dated at
this 24th day of June, 1968


Laurence J. Cohen
Counsel for International
Brotherhood of Electrical
Workers, AFL-CIO

Dated at Indianapolis, Indiana
this 21st day of June, 1968


Douglas J. Hill
Counsel for Sarkes Tarzain, Inc.

DECISION, ORDER, AND CERTIFICATION OF RESULTS OF ELECTION

8-9-68

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SARKES TARZIAN, INC.

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIOCases Nos. 25-CA-2490
25-CA-2534
25-RC-2308

FEB 6 1968

FOR RELEASE MONDAY PAPERS

DECISION, ORDER, AND CERTIFICATION OF RESULTS OF ELECTION

On March 8, 1967, Trial Examiner David London issued his Decision in the above-entitled proceedings, finding that Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. He also recommended that the election held herein be set aside. Thereafter, Respondent filed exceptions to the Decision and a supporting brief, and General Counsel filed a brief in support of the Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with these cases to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Trial Examiner's Decision, the exceptions, the briefs, and the entire record in these cases, and finds merit in Respondent's exceptions. Accordingly, the Board adopts the Trial Examiner's findings, conclusions, and recommendations only to the extent that they are consistent with the following.

Respondent is engaged in the manufacture of electrical equipment at three plants in Monroe County, Indiana. The Union began a drive to organize the more than 1,600 production and maintenance employees at the three plants in April 1962. In January 1963, there was an election. The Union lost and filed objections. The Board set aside the election and directed a second

^{1/} election. On May 12, 1966, the Board conducted a second election. Again the Union lost and again it filed objections to the election. It also filed unfair labor practice charges. The objections and the unfair labor practice allegations were consolidated for the purpose of a hearing. The Trial Examiner found that Respondent had committed multiple violations of Section 8(a)(3) and (1), and found further that these violations warranted setting aside the election.

1. The Trial Examiner found that Respondent imposed, and kept in effect until employee Tom Beech quit, a rule against work relaxation by its maintenance employees in order to devise a pretext to discipline said employees for their union adherence. We disagree with this finding.

Tom Beech was one of five maintenance men on the night shift. He was hired in February 1966. On the evening of April 14, 1966, he appeared at work wearing a Union button, the first such button worn by an employee on the night shift. The same evening Payne, the night foreman, told Beech that he was being transferred to the day shift because one of the maintenance men on the day shift had quit. When Beech complained the following day to Plant Manager Polley that he could not work days,^{2/} the transfer order was rescinded, Polley explaining that he had mistakenly thought Beech was a cam man. There is no contention that this attempted transfer of Beech violated the Act. On the evening of April 15, Payne called a meeting of the night maintenance men and told them that henceforward instead of being responsible for the maintenance of a particular set of machines, they would be rotated on different machines, and that they were "no longer to sit down at all and quit talking to the girls, to keep busy at all times and if the new machines were running properly to find work somewhere along the lines even if the machines weren't being operated. . . ." About a week after this talk by Payne, Beech quit. It

^{1/} 157 NLRB 1193.

^{2/} Unknown to Respondent, Beech was attending law school during the day.

is not contended that Beech's quitting was caused by Respondent or was unlawful. After Beech quit, several employees testified, maintenance men sat and talked to the girls on the line "just about every night."

The above facts are not sufficient to justify an inference that the purpose of the rule against "relaxation" was to devise a pretext to discipline the maintenance employees for their union adherence. First, the rule applied to all maintenance employees and not only to Beech. And the evidence does not show that the four other maintenance men were known adherents of the Union. Second, the rule was reasonable under the circumstances. The evidence is that the maintenance work on the night shift was not being performed properly and that operators as well as supervisors had complained of laxity. The rule itself merely required that the maintenance employees keep busy rather than sit around and talk to employees as some of them did. Although the testimony that the maintenance men resumed talking to production operators after Beech quit creates some doubt as to the bona fides of the reason for the rule against "relaxation," it is not sufficient to overcome the other evidence which indicates that the rule was adopted for legitimate economic rather than discriminatory reasons.

2. The Trial Examiner further found that Respondent violated Section 8(a)(1) by engaging in surveillance of employees as they entered and remained in the restroom in order to ascertain their union adherence or sympathies. Again we disagree.

About 2 years prior to the hearing, Foreman Payne had promulgated a rule among coilwinders that two persons from the same group were not to go to the restroom at the same time. For some reason, the rule had not been applied to the girls in quality audit. In April 1966, when two coilwinders who were members of the Union's organizing committee were criticized for violating the rule, they complained that the rule was not applied to girls in quality audit and they named specifically Anna Branum and Reva Robertson, two other members of the organizing committee. As a result of these complaints,

Respondent in mid-April 1966 extended the rule to the quality audit girls. Thereafter, Reva Robertson testified, every time she went to the restroom she was followed by Assistant Foreman Porter, or a group leader, who remained there as long as Robertson, and then followed her out. Anna Branum testified that, on April 14, she saw Foreman Payne and Assistant Foreman Porter "sitting on the line directly in front of the restroom. They had a pad of paper and a pencil and each time a girl would go in and out they would write down something on this paper." She also testified that whenever she went to the restroom she was followed by Porter. On April 18, Branum complained to General Foreman Parish that she was "being followed and watched at all times." When asked by Parish if she had any idea why this was being done, Branum answered it was because she attended union meetings. Parish replied that what she did "after 12:30 is strictly her own business."

The Trial Examiner did not find the original rule against two girls going to the restroom together, or the extension of the rule to the quality audit girls, unlawful. As set forth above, the original rule was promulgated before the Union's organizing campaign and the extension of the rule to quality audit girls resulted from the complaint of members of the Union organizing committee. The Trial Examiner found only that Respondent had engaged in surveillance of its employees, relying on the testimony of Robertson and Branum that they had been observed and followed into and out of the restroom by supervisors, and that two foremen had sat outside the restroom and had written something on a pad each time a girl went in or out of the restroom. There is no evidence that the watching of Robertson and Branum had anything to do with their union activities. Both had been singled out by other members of the Union's organizing committee as violating the rule against employees in the same group going to the restroom together. When Branum complained to General Foreman Parish about being watched and attributed this to the fact that she had attended Union meetings, Parish replied in substance that her attendance

at such meetings was her own business. Neither girl was reprimanded for engaging in organizing activities in the restroom. As for the foremen who made notes outside the restroom, there is no evidence what they wrote. It is sheerest speculation that the surveillance of employees entering and leaving the restroom was, as found by the Trial Examiner, for the purpose of ascertaining the union sympathies or adherence of employees. An equally tenable inference is that the surveillance was for the purpose of enforcing the lawful rule against certain employees going to the restroom together. Under the circumstances, we find that the General Counsel has not proved by a preponderance of evidence that Respondent engaged in unlawful surveillance of its employees.

3. The Trial Examiner found that Respondent constructively discharged Agnes Felty and Reva Robertson and discharged Bobby L. Bennett, all in violation of Section 8(a)(3). We disagree.

Agnes Felty

Mrs. Felty was hired in April 1962. She was given the standard job classification test for new employees and her performance indicated that she was best suited for crimp and solder work. As a result, she was given a crimp and solder pattern. Initially she did solder work with a hand iron. About 6 months later, Respondent transferred her into the production machine shop where she operated a number of different machines. She remained in this shop until September 1965, when, together with a number of other employees, she was transferred to a production assembly line where she did crimp and solder work. About a week later, she was transferred to another assembly line where she performed solder work.

In November 1965, Felty brought Respondent two statements from her personal physician. In sum, the statements recommended that Felty be given a 30-day medical leave of absence because of her sensitivity to solder fumes. Respondent granted the request.

On December 13, 1965, Felty returned to work with clearance from her physician to do so. Respondent assigned her to her former job. Again bothered by the solder fumes, she saw her physician and several days later brought a statement from him which said that she was still allergic to solder fumes and should not work in this type of atmosphere. Respondent reassigned her: first, for a day or so straightening little blades which had been bent in the tuners, then in the machine shop, and finally, to the initial position on a production assembly line where she put contacts in solder rings. This last job required no soldering although some solder work was performed 5 or 6 feet farther down the line.

On April 18, 1966, the assembly line on which Felty was working was dissolved. Of the 12 girls adversely affected by the dissolution, 6 decided to quit and 6 were reassigned. Felty was transferred to another assembly line where she did crimp but no solder work. The next morning Felty reported directly to the plant nurse and complained about solder fumes which were bothering her. The nurse then directed her to Production Manager Polley to whom she repeated her complaint about the solder fumes. Polley told her, as he had the day before when she had made a similar complaint, that she had been hired as a crimp and solder worker, that the only openings outside of crimp and solder work were in the machine shop, and these jobs were being saved for older girls. He then asked Felty to at least try her new job, for otherwise he would have to let her go.

Felty went back to the assembly line. Her station was between two girls who were using solder irons, although she did only crimping. Fifteen to 20 minutes later her foreman, acting on Polley's instructions, brought her a small adjustable table fan which solderers normally used to blow away fumes, and placed it directly in front of her on a conveyor belt. A short time later she told her assistant foreman that she did not feel very well and that she was going to go home at the 9 o'clock break. The assistant foreman said she would tell the foreman that Felty was going home at the break.

About 8:20 a.m. the foreman returned with a relief girl and said that if Felty felt that bad she could go home immediately. Felty left the line, checked out through the dispensary, and went home. On April 25, Felty returned to the plant with a statement from her physician which said that Felty had a respiratory condition which was aggravated by solder fumes and that she "must not come in contact with such fumes." After reading the statement, Polley told her that he was forced to put her on medical leave because he could not allow the company to be sued as the result of her health problems. She never returned to work.

The Trial Examiner found that Respondent constructively discharged Felty on April 19, 1966, by assigning her to a job which Polley knew was injurious to her health and which he knew she would not and could not accept. The Trial Examiner also found that Respondent was motivated in its conduct by Felty's union activities.

Felty was a member of the Union's organizing committee during the 1962 organization campaign and has been a member of the Union ever since. During the 1962 campaign, she passed out more than 100 union cards. On March 18, 1966, she passed out 20-30 union cards in the plant and personally solicited the signatures of 5 employees to such cards. She also attended several Union meetings and passed out Union literature and Union key charms while working on her line. The Trial Examiner inferred that since these activities were carried out openly, Respondent's supervisory personnel "must have been, and was, aware thereof," although Respondent denied such knowledge and there is no direct evidence of knowledge. In any event, the Trial Examiner found that on April 25, 6 days after Felty had been "constructively discharged," Plant Manager Polley knew of her Union membership when she appeared at the plant seeking reemployment wearing a large button which identified her as a member of the Union's organizing committee.

We find it unnecessary to decide whether the Trial Examiner's finding that Respondent was aware of Felty's union activities was justified because, in any event, we find that she was not constructively discharged.

Before April 19, there are numerous examples of efforts made by Respondent to accommodate Felty and retain her in its employ. When she asked for a 30-day leave of absence, she received it. When she returned to work with a statement from her doctor that she was allergic to solder fumes, she was reassigned to a job which did not require soldering. Even when her assembly line was dissolved, Respondent assigned her to crimp work and not to soldering. And when Felty complained that solder work performed by other employees was bothering her, Respondent asked her to try to make a go of it and furnished her with an adjustable fan with which to blow away the solder fumes. ^{3/} This conduct on the part of Respondent is inconsistent with an inference that Respondent was trying to get rid of Felty as an employee.

The Trial Examiner appears to have believed that Respondent could have done more to find employment for Felty which would not bring her into contact with solder fumes. For example, he refers to the fact that Felty had worked for almost 3 years as a machine operator where she was not bothered by solder fumes and could have performed such work again. However Respondent's uncontradicted evidence is that Felty had always had a solder and crimp pattern; that there is a separate pattern for machine operators which is reserved for people with high seniority who have difficulty performing other jobs in the plant; that employees with less than 6 years seniority are never considered for a machine operator's pattern (Mrs. Felty had only 4 years seniority); that jobs calling for employees having a machine operator pattern are never filled with employees having a crimp and solder pattern unless there are no employees having the machine operator pattern available; that Felty together with other employees having crimp and solder patterns worked in the machine shop before September 1965 because of a shortage of personnel with the machine operator pattern; that in September 1965 all girls in the machine shop having crimp and solder patterns, including Felty, were transferred elsewhere because of a seniority layoff; and that on April 19, when Felty was transferred to a new line to perform crimp work, there was no vacancy in

^{3/} The Trial Examiner found that supervisor Young so placed the fan that it blew smoke and fumes into her face. But the evidence is that this was an (continued)

the machine operator pattern except for a temporary opening on line 4 resulting from the fact that the regular operator in that position had suffered a back injury and had to be taken off the line for 2 weeks. Although Felty presumably could have performed this temporary work, the job, in accordance with Respondent's policy, was assigned for 2 weeks to a girl with less seniority than Felty who had been doing the same work on the recently dissolved line.

The Trial Examiner further found it "incredible" that with a large payroll, and with its admitted need for employees for whom it was contemporaneously advertising, Respondent could not transfer Felty either to a machine operator's job or to any of the other jobs which she had held which were not injurious to her health. However, the evidence is that there were no regular machine operator jobs available during this period, and that there were no other jobs for which Felty was suitable which would not bring her into contact with soldering fumes. We note, moreover, that Respondent had assigned her to a crimp job, which did not involve soldering, immediately prior to her alleged constructive discharge. For the foregoing reasons, we are not satisfied that Respondent constructively discharged Felty on April 19, 1966, or that it unlawfully refused to reemploy her on and after April 25.

Reva Robertson

Reva Robertson had been employed by Respondent on three different occasions, the last time beginning on January 31, 1966, as an inspector assigned to quality audit on the night shift. Of the four inspectors on the night shift, three, including Robertson, were assigned to the coil-winding department, and the fourth to the production machine shop.

Robertson signed a Union authorization card on April 7, 1966, attended a Union meeting about a week later, and became a member of the Union organizing committee on May 4. She wore a Union button conspicuously while at work, and passed out Union designation cards as well as Union literature during nonworking time.

3/ adjustable fan regularly furnished solderers to draw smoke away from their faces. Crimp operators do not normally have fans. Felty could have positioned it any way or shut it off entirely in order to keep fumes from blowing into her face.

On February 12, Robertson was transferred to the production machine shop or "stick room," a small enclosed area. When she brought a doctor's certification saying she could not stand the dust and material in the "stick room" she was returned to her former job as inspector in the coilwinding department. In May 1966, Respondent determined to reduce the number of quality audit inspectors by one girl. There is no contention that this decision was discriminatorily motivated. On May 19, Respondent told Twila Robbins, the inspector then working in the production machine shop, that as she had the least seniority of the inspectors, she would be laid off, unless she was willing to accept a job as a coilwinder. This she did. Foreman Parish then called in the other inspectors and told them that Robertson, as the inspector with next lowest seniority, was being assigned to the production machine shop in place of Robbins. When Robertson complained that she could not work in that shop because of the dust and fumes and referred to the doctor's certificate of the previous February, Parish offered her a coilwinder job, the same job offered to and accepted by Robbins. Robertson declined to accept the alternative job because, about 10 years earlier, she had been bothered by solder fumes. Inspector Anna Branum offered to take a "layoff" so that Robertson could retain her job as inspector; Inspector Rita Clemmons offered to take the "stick room" job in place of Robertson. Respondent refused to accept either offer. Robertson thereupon quit.

The Trial Examiner found that, as in the case of Felty, Robertson was constructively discharged in May 19 because of her union activities. He relied in part upon a finding that Robertson was afflicted with "asthma bronchitis," and that Respondent was allegedly aware that she had for that reason been removed from the jobs which were tendered to her on May 19; and, further, that Respondent offered no satisfactory evidence for not accepting the offers of two of Robertson's fellow inspectors which would have made a transfer of Robertson from the coilwinding department unnecessary.

Although Respondent initially offered Robertson a job in the production machine shop, it did not insist that she accept this offer when she reminded Respondent of the February certificate from her doctor. As to the alternative job, Robertson testified that 10 or 12 years previously she had been bothered by solder fumes and had brought a doctor's certificate that she was allergic to such fumes. However, not only was this baneful experience with solder fumes stale, but a week previous to May 19, Robertson had offered to trade jobs for a while with coilwinders, the same job which Robertson rejected on May 19, after the coilwinders complained that the jobs in audit control were easier than their own. This casts doubt on the legitimacy of Robertson's reasons for the rejection of the offer of a coilwinder's job. Finally, Respondent's refusal to accept a substitute transferee in place of Robertson must be placed against the uncontradicted testimony of Respondent that it does not permit employees to decide for themselves who shall take layoffs or to choose their own positions. There is no evidence that Respondent varied this practice for other employees in other circumstances.

Accordingly, as in the case of Felty, we are not satisfied that a preponderance of the testimony supports the Trial Examiner's finding that Robertson was constructively discharged.

Bobby L. Bennett

Bobby Bennett began her employment with Respondent in January 1966. For the first few weeks of her employment she performed miscellaneous jobs. In mid-February she was assigned to a rivet base job on line 9. When this line was dissolved on May 24, Bennett together with 11 other girls was transferred to the stickwinding department for training. The girls were told that only those who were able to make a daily rate of 29 trays would be retained. At the end of 2 weeks Bennett had failed to make her required rate. As with the other girls who had similarly failed, Respondent extended her trial period an additional week. When Bennett still failed to make the

rate, (her maximum production was 16 trays), she was terminated together with other girls who had also failed to make the rate.

There is no contention that Bennett's transfer to the stickwinding department or the production rate set for the stickwining job were discriminatory. The Trial Examiner found, however, that Bennett's discharge on June 15 was motivated by her known Union activities and to discourage employees from engaging in any further attempt to designate the Union as their bargaining representative. (The Union had lost the election held on May 12 by 96 votes; it had lost a previous election in 1963 by 699 votes.) In making this finding, the Trial Examiner stated that, assuming that Respondent properly removed Bennett from the stickwinding job for failure to make her quota, it failed to offer testimony as to why it failed to assign her to several other jobs which she had previously performed satisfactorily. He also relied upon alleged more favorable treatment meted out to other employees who were transferred to the stickwinding department at the same time as Bennett. As to the availability of other jobs for Bennett which she had previously performed, there is no evidence that any such were open. In the case of employee Betty McLaughlin, the Trial Examiner found that when she threatened to quit her stickwinding job unless she was transferred back to her old job on the old production line, Respondent granted her request. It is difficult to see how this incident proves discrimination against Bennett; the two situations are not comparable. So far as appears, McLaughlin was performing the stickwinding job satisfactorily, she was not in fact transferred back to her old job on the old line but to another department, and Bennett had not requested transfer to another department. Finally, the Trial Examiner refers to the reemployment on July 20 of Sandra Laven who like Bennett was discharged on June 15 for failure to make her rate as a stickwinder. However, the evidence is that, unlike Bennett, Laven repeatedly applied to the personnel department for reemployment after her discharge. Finally, she was hired at a different job, at a different plant,

at another location, when a position became available. There is therefore no such discrepancy in the treatment of Bennett, McLaughlin, and Laven, as to support an inference of discrimination against Bennett. Accordingly, we find that the General Counsel has failed to prove by a preponderance of evidence that Respondent discriminatorily discharged Bennett on June 15.

4. The Union also filed six objections to conduct affecting the second election. In agreement with the Trial Examiner, we find that three of the objections are without merit.

Two of the remaining three objections allege that Respondent engaged in unlawful surveillance. In regard to these two objections, the Trial Examiner stated that his findings in the complaint case warrant sustaining the objections. The first of the two objections involves the alleged 8(a)(1) surveillance alluded to previously. Our reason for dismissing the allegation in the complaint likewise applies in overruling the objection.

The second objection was not considered by the Trial Examiner. It alleges that supervisor Russell Sloan kept employee Union adherents and employees receiving Union literature under open surveillance for the purpose of coercing said employees. The evidence establishes that Russell Sloan is the production manager at Respondent's plant that produces semiconductive devices. Sometime in April 1966, Union supporters began passing out handbills in the parking lot outside the plant. Soon thereafter, a few employees complained to Sloan about the passing out of the handbills. One employee said she was going to take a sock at somebody. To prevent some sort of confrontation, Sloan decided to stay in the parking lot at the end of the 4 p.m. shift. On a few occasions he went up to the men who were passing out the handbills and talked to them. The conversations were friendly. Sloan never questioned their right to be there. He never asked them to leave. In fact, although there was a 5-year old company rule prohibiting nonemployees on the parking lot, Sloan allowed men who he knew worked for RCA to pass out handbills.

On the basis of this evidence, we find no merit in the Union's objection. Accordingly, we shall overrule it.

The final objection, objection No. 4, alleges that Respondent discriminated against Agnes Felty. As the Regional Director points out in his Report on Objections, this objection must fail if the discharge is found to be lawful. Having found the discharge lawful, we find no merit in this objection and hereby overrule it.

As the Union failed to receive a majority of the valid ballots cast, we shall certify the results of the election.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the complaint herein be, and it hereby is, dismissed in its entirety.

CERTIFICATION OF RESULTS OF ELECTION

IT IS HEREBY CERTIFIED that a majority of the valid ballots has not been cast for International Brotherhood of Electrical Workers, AFL-CIO, and that the said Union is not the exclusive bargaining representative of the employees employed by Sarkes Tarzian, Inc., Bloomington, Indiana, in the unit herein involved, within the meaning of Section 9(a) of the National Labor Relations Act, as amended.

Dated, Washington, D. C.

Frank W. McCulloch, Chairman

Gerald A. Brown, Member

Howard Jenkins, Jr., Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

TXD-115-67
Bloomington, Ind.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF TRIAL EXAMINERS
WASHINGTON, D. C.

SARKES TARZIAN, INC.

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO

Case Nos. 25-CA-2490
25-CA-2534
25-RC-2308

Walter J. Mercer, Esq., of
Indianapolis, Ind., for the
General Counsel.
Cadick, Burns, Duck & Neighbours,
by D. C. Duck, Esq., and
Douglas J. Hill, Esq., of
Indianapolis, Ind., for Sarkes
Tarzian, Inc.
Sherman & Dunn, by Chas. R.
Donnenfeld, Esq., of
Washington, D. C., for the
Charging Union.

Before: David London, Trial Examiner.

TRIAL EXAMINER'S DECISION

Statement of the Case

Upon a charge filed in Case No. 25-CA-2490 on April 21, 1966, amended on May 27, 1966, and another charge filed in Case No. 25-CA-2534 on June 17, 1966, by International Brotherhood of Electrical Workers, AFL-CIO, hereinafter called the Union, the General Counsel of the Board issued 2 complaints against Sarkes Tarzian, Inc., the Respondent and Employer herein. The complaint in Case No. 25-CA-2490, issued on June 30, 1966, and subsequently amended, alleges that Respondent interfered with, restrained and coerced its employees in the exercise of rights guaranteed by the Act, and constructively discharged its employees Agnes O. Felty and Rave Robertson by assigning them work which was injurious to their health and well-being, and thereafter failed and refused to reinstate them to their former or substantially equivalent positions, all in violation of Section 8(a)(1), (3) and (4) of the National Labor Relations Act, as amended, ("the Act"). The complaint in Case No. 25-CA-2534, issued on July 27, 1966, alleges that on June 15, 1966, Respondent discharged, and thereafter refused to reinstate, Bobby L. Bennett because she also engaged in activities protected by the Act, thereby violating Section 8(a)(1) and (3) thereof. On July 27, 1966, the Board's Regional Director ordered that said cases be consolidated. Respondent, by its answers to said complaints, denied the commission of any unfair labor practices.

During all times mentioned above, a representation proceeding, initiated on October 5, 1962 and known as Case No. 25-RC-2308, was also pending before the Board by which the Union was seeking certification of Respondent's production and maintenance employees. The first election in that proceeding having been set aside, at the second election conducted on May 12, 1966, a majority of the employees cast their votes against representation by the Union. On July 7, 1966, the Union filed timely "Objections to Conduct Affecting the Results of [that] Election." Because 4 of the Objections were based on conduct alleged to be violative of the Act in Case No. 25-CA-2490 herein, and 2 other objections involved disputed facts, the Board's Regional Director, on August 31, 1966, ordered that a hearing be held to resolve the factual issues involved in those 6 objections. On the same day, he further ordered that Case No. 25-RC-2308 be consolidated with Cases Nos. 25-CA-2490 and 25-CA-2534.

That consolidated proceeding, with all parties represented, was heard by Trial Examiner David London at Bloomington, Indiana, on September 26-28, 1966, and was concluded October 28, 1966, when the posthearing deposition of Jo Belle Robinson was made a part of the record herein. Briefs from all parties were received on or about November 18, 1966, and have been fully considered by me. Upon the entire record of this consolidated proceeding ^{1/}, and other specified proceedings before the Board involving Respondent of which I have been asked by the General Counsel to take judicial or official notice, and upon my observation of the witnesses as they testified herein, I make the following:

Findings and Conclusions

I. The Business of Respondent-Employer

Respondent is now, and has been at all times material herein, an Indiana corporation engaged in the business of manufacturing electronic equipment at Bloomington, Indiana. During all times relevant herein, Respondent manufactured, sold, and shipped from its Bloomington, Indiana, plants finished products valued in excess of \$50,000 to points outside the State of Indiana. Respondent admits and I find, that it is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. The Labor Organization Involved

The Union is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

III. The Alleged Unfair Labor Practices

A. Background and Sequence of Events

The testimony is undisputed that since April 1962, the Union has been continuously engaged in a campaign to organize and

^{1/} Respondent's undated motion, filed on November 18, 1966, to make 4 specified corrections in the official transcript of testimony herein is granted with respect to items 1, 3, and 4 as specified therein, and denied as to item 2 thereof. It is further ordered that lines 24 and 25 on page 160 of said transcript be corrected to read as follows: "A. Yes, sir. He told me that 29 trays a day was not impossible, he had other girls making it."

represent Respondent's production and maintenance employees. Pursuant to the petition filed by the Union in Case No. 25-RC-2308 on October 5, 1962, the first election in that proceeding was conducted on January 25, 1963, among Respondent's production and maintenance employees to determine whether they desired representation by the Union for purposes of collective bargaining.

At that election, 510 employees voted for, and 1179 voted against such representation. Timely objections to conduct affecting the results of that election having been filed, the Board's Regional Director, on March 20, 1963, issued his Report on Objections wherein he recommended that a hearing be held to resolve the factual issues involved in certain of those objections and by additional alleged interference. Since the matters to be decided in the representation proceeding were identical with the matters alleged in a complaint in another unfair labor proceeding against Respondent, known as Case No. 25-CA-1666, he further recommended that those cases be consolidated. On April 26, 1963, the Board adopted the above mentioned recommendations of its Regional Director and directed that the recommended hearing be held.

Following that hearing, and a subsequently reopened hearing, the Board, on March 29, 1966, rendered its "Decision, Order, and Direction of Second Election" in that consolidated proceeding (157 NLRB No. 96). By that decision, of which I have taken official notice, the Board found that Respondent had unlawfully interrogated its employees concerning their union activities, threatened them with discharge for engaging in those activities, engaged in, solicited and encouraged employees to engage in surveillance of the union activities of other employees, and had unlawfully discharged or refused to reemploy two employees for engaging in union activities. Because of the totality of Respondent's conduct as disclosed by the record in that proceeding, the Board further ordered that the election of January 25, 1963, which the Union lost by a margin of 669 votes, be set aside, and that a second election be conducted. 2/

At the second election, held on May 12, 1966, 561 employees voted for the Union and 657 voted against representation by that organization. The Union filed timely objections to conduct affecting the results of that election ultimately resulting in the order directing that the instant consolidated hearing be conducted, all as described in Statement of the Case, supra.

B. The Violations of Section 8(a)(1) of the Act

In February 1966, while the Union was engaged in its continuing campaign to organize Respondent's employees, Respondent hired Thomas Beech, a student at the law school of the University of Indiana in Bloomington, Indiana, where Respondent's plants are located. Beech was employed as a machine maintenance man on the night shift, 4 p.m. to 12:30 a.m., and voluntarily quit that employment on April 22, 1966. 3/ During that period, he attended 4-5 union meetings and, on the evening of April 14, was the first employee to wear a union button on that shift.

2/ The Court of Appeals ordered full enforcement of this Board Decision and Order. Sarkes Tarzian, Inc. v. N.L.R.B., ____ F. 2d ____, (C.A. 7, February 27, 1967).

3/ Unless otherwise indicated, all references to dates herein are to the year 1966.

At about 7:30 p.m., of the same evening, Assistant Foreman Grace Porter told Group Leader Sharon George to watch Beech and "if he sat down to report him." About an hour later, Foreman Payne, told Beech that effective the following Monday he was being transferred to the day shift. When Beech complained to Payne that Respondent was informed by Beech when he was hired that he could only work nights, Payne replied that he had nothing to do with the transfer, but that it had been ordered by Jennings Polley, Respondent's production manager. Polley was the same man who, together with other officials and supervisors of Respondent, had been found guilty in the prior proceeding (157 NLRB No. 96) of spying upon, and inducing employees to spy upon, other employees with respect to their union sympathies. Before reporting for work on the following afternoon, Beech went to Polley's office and repeated what he had told Payne the prior evening. Polley rescinded the transfer order.

Prior to April 15, it was the practice of the maintenance employees to "relax" during their work period until their services were called upon by machine operators to repair their machines. Shortly after the night shift reported on April 15, Payne called all the maintenance employees to a meeting and instructed them that they "were no longer to sit down at all, . . . to keep busy at all times, even if the machines were working properly." From that time on, until Beech quit his employment a week later, Porter, Payne, and Group Leader Sharon George, constantly "kept an eye on him wherever he went, even when he went, even when he left his set of machines/ and went down to the far end of the plant where no one was present, one of them would drift down." 4/ After Beech left his employment, maintenance men sat and talked to the girls on the line "just about every night."

On April 14, 1966, in a departure from the existing practice, Respondent also promulgated a rule that "no two friends or any close relation (sic) that worked together were to go to the restroom together." Thereafter, Rava Robertson, one of the alleged discriminatees herein, observed that every time she went to the restroom she was followed by Assistant Foreman Porter, or a group leader, who remained there as long as Robertson, and then followed her out.

Anna Branam, employed by Respondent at the time of the hearing herein, became a member of the Union's organization committee in the latter part of April 1966 and thereafter, while at work, wore a large button identifying her as a member of that committee. On April 14, 1966, Branam observed Foreman Payne and Porter "sitting on the line directly in front of the restroom. They had a pad of paper and a pencil and each time a girl would go in and out they would write down something on this paper." 5/ Branam further testified, and I credit her testimony notwithstanding Porter's denial thereof, that whenever she went to the restroom she was followed by Porter.

On April 18, Branam went to the office of General Foreman Parish and told him that she could not continue to work "under the

4/ George, a witness for Respondent, testified that Porter instructed her "to watch the maintenance employees and make sure that they were working all the time."

5/ Porter did not deny this testimony, and Payne was not called as a witness.

pressure" to which she was being subjected. Parish asked her to explain, and she told him that she was "being followed and watched at all times." When Parish asked whether she had any idea why this was being done, she answered it was because she attended union meetings. Parish did not deny the accusation, his only comment being that what she did "after 12:30 is strictly her own business."

On the entire record I find that on or about April 14 Respondent imposed, and kept in effect only until Beech quit on April 22, its rule against "relaxation" by its maintenance employees, its purpose being to devise a pretext to discipline said employees for their union adherence. By that conduct, Respondent violated Section 8(a)(1) of the Act. I also find that on and after April 14 Respondent violated the same section of the Act by engaging in surveillance of its employees as they went into and remained in the restroom, in order to ascertain their union adherence or sympathies.

C. The Discharge of Agnes Felty

Agnes O. Felty, alleged to have been constructively discharged by Respondent on April 19, 1966, because of her union activities, began her employment with Respondent in April 1962. After 6-7 months in crimp and soldering work, 6/ she was transferred to the machine shop where she operated shaft machines, base machines, drill presses, "and just about any kind of machine they had." She remained in the machine shop until 1965 when she "went back to crimp and solder."

In November 1965, the solder fumes and smoke generated by solder work irritated her nose and throat, choking her so that she could not speak above a whisper. She consulted a physician, Dr. K. Hibner, who, on November 23, 1965, gave her a certificate reading as follows: "Agnes Felty is under my care for nasal and upper respiratory inflammation. This is most likely due to or aggravated by soldering fumes. She should therefore be transferred away from such fumes." On November 29, 1965, she received another statement from Dr. Hibner certifying that she was in his "care for an upper respiratory allergy" and she should have medical leave for approximately 30 days. Both of these documents were delivered to Della Haynes, Respondent's personnel assistant and plant nurse.

Felty remained away from work until December 13, 1965, at which time she gave Haynes the following certificate from Dr. Hibner: "Agnes Felty is under my care for respiratory allergy. She is definitely sensitive to soldering fumes and should not work in this type of atmosphere." Upon returning to work on December 13, Felty was given various assignments on machine shop jobs and on an assembly line, none of which required her to do any soldering or brought her in close contact with solder fumes.

On April 19, line 8, which Felty and about 40 other girls were working, "was broken up," and she was again assigned to line 4 and a job close to soldering fumes. Margaret Hopkins, also on line 8 but

6/ Respondent, in its brief, described this work as follows: "Crimp work is work performed by an operator through the application of a tool upon a part and wrapping, crimping, or cutting of the part. The soldering work . . . consists of the use of soldering iron in making electrical connections or the use of solder pot which applies the bulk solder."

who had been employed by Respondent only 4-5 months, was put on a "rivet base" job. Other girls were transferred to the tube room, and some were retained as "extras", filling in for absent workers. Felty complained of the assignment to Polley, Respondent's production manager and apparently the top man in the plant, who told her she was a "crimp and solder" worker. Though he admitted that he was aware of her condition and also that he had other jobs which she could safely perform, he was unable to assign her to any of those jobs as he was "saving them" for older employees. Instead, he directed her to return to line 4 and report to Vance Young, her foreman. Felty returned to that line where Young, who had charge of about 200 employees, placed her between two girls using soldering irons.

After Felty punched in at 7 a.m., of the following morning, April 20, she went immediately to Haynes and told her that she would "have to be moved out of solder /because she/ just couldn't take the solder fumes and smoke." Haynes told her she could not do anything for her and directed her to Ann East, Polley's administrative assistant in charge of work assignments. East, however, also told her she could not do anything for her and took her to Polley's office. When Felty asked Polley to transfer her out of solder, he told her she was a "crimp and solder" worker, and that was all he had for her and, if she could not do that work, he would "probably have to let /her/ go." Felty remonstrated that she could not work in solder fumes and that he had her doctor's statement certifying thereto. Polley thereupon instructed her to go back to her line, told her he would see what could be done for her, and repeated that while he had other jobs he could put her on, he did not intend to do it, he had to save them for older girls.

Felty reported back to Young who again put her "right back between two soldering irons." About 15 minutes later, pursuant to instructions from Polley, Young came to Felty's work station and placed a small 6-8 inch table fan on the back side of the conveyor line, facing Felty, where its current blew the smoke and fumes into her face. At about 8 a.m., after she had complained to LaVerne Banks, assistant foreman, that she "just couldn't stand that smoke," Young came to her with a relief girl and told her that if she felt that bad, she could go home immediately. Felty thereupon left the plant and on April 21 caused the Union to file the charge in Case No. 25-CA-2490, alleging that Respondent on April 19, in violation of Section 8(a)(1) and (3) of the Act, had transferred her to a job she was not capable of holding. Respondent received a copy of that charge on April 22, 1966.

Felty returned to the plant on Monday, April 25, reported to Haynes and showed her Dr. Hibner's certificate certifying that she was under his care "for a respiratory condition which is aggravated by solder fumes. Therefore she must not come in contact with such fumes." Haynes told her she could do nothing for her and that she would have to see Ann East. The latter, however, also told her she could do nothing for her and instructed her to report to Polley's office, where Polley read the doctor's statement and immediately left his office. He returned about 10 minutes later and asked her to accompany him to Haynes' office. 7/ There, he asked Felty whether she had her tools with her and she replied affirmatively, adding that she would check them in. Polley, however, told her that he would himself check her tools in, and would mail her insurance papers and leave of absence to her.

7/ Polley testified that during this 10 minute interval he "checked" with Haynes and Woods, company counsel, about the "possible ramifications."

Upon informing him that she would come to the plant on Friday to pick up her check, he rejected that suggestion and told her that the check would also be mailed to her. As they left the personnel office, Felty told him she wanted to return into the plant to pay the girl with whom she shares rides to work. Polley, however, denied her request, remarking that he had to get her out of the plant, and escorted her to the front door of the plant lobby.

In the following June there was an exchange of correspondence between Felty and counsel who represented Respondent at the instant hearing. In this correspondence, Felty repeatedly stressed her continuing desire from April 19 forward to return to any job which did not "directly expose" her to solder fumes, jobs in which she had experience, and which were filled and being filled by employees with less seniority. Respondent's counsel, however, on June 15 informed her that she would be reemployed only upon presentation of a certificate from her doctor "that contact with solder fumes will no longer be injurious to /her/ health and that /she/ may therefore be assigned to a job where /she/ may be in contact with such fumes." This was supplemented by Respondent counsel's letter of June 28 stating that in order to return to work she would "be required to furnish an unconditional clearance to work from /her/ doctor."

On the entire record I find that Respondent constructively discharged Felty on April 19, 1966 by assigning her to a job which Polley knew was injurious to her health and which he knew she would not, and could not, accept. 8/ I further find that this assignment and termination was imposed because of her union activities. In arriving at this conclusion, I have been fully mindful that the April 19 termination may not be adjudged violative of the Act only upon a showing of union activity by Felty which factor Respondent apparently concedes has been established by the record herein. In order to prevail, it is incumbent upon the General Counsel to establish by a preponderance of the evidence that Respondent had knowledge of Felty's union activities and made the assignment of which complaint is made in order to discourage such activities. Though the record does not establish by direct evidence that Respondent on April 19 had knowledge of Felty's union activities, proof of such knowledge maybe established by circumstantial as well as by direct evidence. Here, a finding that Respondent had such knowledge is fully warranted and required.

The testimony is undisputed that Felty became a member of the Union's organization committee during the 1962 campaign and has been a member thereof ever since. During the 1962 campaign she passed out more than a hundred union cards. On March 18, 1966, following a meeting of the Union's organizing committee, she passed out 20-30 union cards in the plant, and personally solicited the signature of 5 employees to such cards. At each union or committee meeting she attended on March 23, March 31, April 6, April 14, 1966, she delivered to union officials additional union designation cards signed by other employees. During the same period, while working on her line, she also passed out union literature and Union key charms. None of these activities were

8/ "Plainly, Section 8(a)(3), when it speaks of 'discrimination in regard to--conditions of employment,' includes an unreasonable and improper condition for retaining employment." N.L.R.B. v. Ra Rich Nefg. Corp., 276 F. 2d 451, 454. (C.A. 2).

carried on in a clandestine manner and warrant the conclusion that supervisory personnel must have been, and was, aware thereof. 9/ By reason of all the foregoing, I reject Respondent's contention that it was unaware of Felty's union activity and find that it had such knowledge prior to the time Felty was assigned to work which Polley knew she could not perform without serious injury to her health.

In any event, on April 25, when Polley denied Felty's request to return to work and instead escorted her out of the plant thereby clearly indicating that her further presence in the plant would no longer be tolerated, Polley was openly apprised of her union activity. On that occasion she wore a large round button, 2 inches in diameter, identifying her as a member of the Union's organizing committee.

Turning now to Respondent's refusal to assign Felty to work she could safely perform, Respondent, in its brief, admits "that Mrs. Felty had worked in the machine shop where apparently she was not bothered by solder fumes, and that on line 8, the line upon which she was working immediately prior to April 19, 1966, she worked on a sub-assembly rivet base job upon which she made no complaint of solder fume irritation." Respondent contends, however, it could not assign her to a machine shop job because she had always carried a "pattern", or classification, as a "crimp and solder" worker, and not a "machine operator patter." The latter "pattern," Respondent contends, is "held for high seniority people who have difficulty in performing other jobs in the plant."

The testimony is undisputed, however, that Felty transferred to a machine operator's job in the fall of 1962 after being employed only for 5-6 months, and continued as a machine operator for almost 3 years thereafter. It is also significant that on April 19, 1966, when line 8 was broken up, Margaret Hopkins, who had been in Respondent's employment only 4-5 months, was transferred to a machine operator's job, others were transferred to the tube room where there was no direct contact with solder fumes, while others were retained as "extras." Respondent's failure to make a similar transfer for Felty is especially significant in light of the testimony of Everett Sears, Respondent's personnel manager, that it is "company policy that if an employee has difficulty, or a problem with a particular type of job that they have been working on, that the Company will give them an opportunity to try another job and thus stay with" Respondent, a policy admitted by Sears to be well known by its employees, and announced personally by Sarkes Tarzian, its president.

9/ Though the burden of establishing such knowledge rests on the General Counsel, it is worthy of note that Polley, while testifying at length herein in behalf of Respondent, was never asked by its counsel whether he had knowledge of Felty's union activities. In the prior proceeding (157 NLRB No. 96), Polley admitted with respect to employee Wilber, found by the Board to have been discharged for his union activities, that he had heard rumors that Wilber was "pretty" active in the Union. The Board also found that Polley had engaged in extensive espionage activities seeking to ascertain the Union views and interest of Respondent's employees.

I find it incredible that Respondent, with a payroll of approximately 1500-1600 employees in 3 different plants and continuously advertising by radio and newspaper, "on and off" since January 1966 to the time of the hearing herein, that it was in need of help, 10/ could not transfer Felty, an undisputed satisfactory and competent employee, to either a machine operator's job or to any of the other jobs she formerly held, none of which were injurious to her health. On the entire record, I find that by transferring Felty to line 4 on April 19, 1966, when Polley was well aware that she could not work there, Respondent constructively discharged her. I further find that this discharge, and Respondent's refusal to reemploy her on and after April 25, a matter which was fully litigated, were both imposed in order to discourage Respondent's employees from supporting the Union at the impending election which the Board had ordered only a few weeks before. By that conduct Respondent violated Section 8(a)(3) and (1) of the Act. 11/

D. The Discharge of Reva Robertson

Robertson has been employed by Respondent on 3 different occasions, the last time on January 31, 1966. She signed a Union authorization card on the following April 7, attended a union meeting on April 13 and became a member of its organizing committee on May 4. Robertson wore a union button similar to that worn by Felty and also had a large button, 3 inches in diameter, reading "Vote I.B.E.W." attached to her purse, which she kept exposed at her work station where William Payne, her foreman, drank his coffee. "Everytime" during this period, when she had occasion to go the restroom, Robertson was followed by Grace Porter, assistant foreman, or one of the group leaders, who remained in the restroom as long as Robertson was there and then followed her out. Commencing about May 5, she passed out union designation cards and about May 10 began circulating union literature during her supper hour at 8 p.m. During this period, when Robertson complained to Payne that she and employee Anna Branam were being watched by Porter, Payne commented on the union button Robertson and Branam were wearing and told them that he knew how they "stood before they started wearing union buttons" and that Robertson had been watched by Porter. 12/

According to Respondent's records, when Robertson was rehired on January 31, 1966, her pattern or classification was that of an inspector and she continued in that work until Saturday, February 12, when she was assigned to the "stick room," a small enclosed room. After working in that room for about 2 hours, she had to be "taken out" of that room because of the prevailing fiber glass dust. On the following Monday, she brought her doctor's statement to Payne, certifying that the "wheezing, coughing, etc.," of which she complained was "due to the large amount of dust and material in the air" and recommending that she be removed from that area. She thereupon was taken off that job and resumed her work as an inspector.

10/ Sears admitted that "people are in scarce supply in this community."

11/ Having so found, I deem it unnecessary to further consider or pass upon the additional allegation of the amended complaint that Respondent violated Section 8(a)(4) of the Act by refusing to reinstatement Felty on June 20, 1966, because unfair labor practice charges had been filed in her behalf.

12/ Payne was not called as a witness.

On May 19, Robertson and other employees were called to the office of Wilbur Parish, general foreman in charge of quality control. There, she was told by Payne that their staff was being reduced and since Robertson was lacking in seniority, she would either have to take the job in the stick room from which she had been removed on the preceding February 12, or to a coil winding job which would bring her in contact with soldering fumes. With respect to the stick room job, Robertson told Payne that she had the doctor's statement of February 12 and he acknowledged that he was aware thereof. With respect to the alternative, she complained that during earlier employment by Respondent she had to be taken off that job because she "couldn't take the solder fumes. When Anna Branam, an inspector who was present, volunteered to take a layoff so that Robertson could keep her job as an inspector, Payne replied that there would be "no layoffs." Rita Clemmons, who had greater seniority than Robertson, also volunteered to take the stick room job tendered to Robertson but the latter was told that the matter would have to be taken up with Polley, who apparently was not present. Robertson called Parish the following morning and was told that he had not yet talked to Polley. During the afternoon, however, Parish called and told her that there was no change in the situation.

On the entire record, and for substantially the same reasons I concluded that Felty had been constructively discharged, I also find that Robertson was similarly discharged on May 19 because of her union activities and to discourage Respondent's other employees from engaging in such activities.

Robertson was afflicted with "asthma bronchitis", and Respondent was aware that she had for that reason been removed from the jobs she was tendered on May 19. Nor was there any satisfactory evidence offered by Respondent why it did not accept Branam's offer to take a layoff so that Robertson could retain her job as an inspector or, in light of its policy on transfers, it did not accept Clemmons' offer to take the job which Robertson could not accept without injury to her health. I conclude that Respondent constructively discharged Robertson on May 19 for the reasons indicated above thereby violating Section 8(a)(1) and (3) of the Act.

E. The Discharge of Bobby L. Bennett

Bennett began her employment with Respondent on or about January 13, 1966, and, for a period of 3-4 weeks thereafter, was engaged in a number of "odd jobs" of which no complaint was or is made. At the end of that period, in approximately mid-February, she was transferred to a rivet base job on line 9 and remained there until May 24. While so engaged, she had a "rate" or quota of performance which she met and of which no complaint is made.

On May 24, she was transferred to a stick winding job where the daily rate was 29 trays, a quota which she never achieved, her maximum performance being 16 trays. On or about June 8, she was called to Foreman Trinkle's office, informed of her failure to make the rate, and asked if she could achieve it if given another week. Bennett attributed her failure to make her rate to a constant shifting from one machine to another, machines that were not working properly. During one of these days, before noon, she performed her work on 7 different machines.

On June 15, Bennett's group leader told her to report to Trinkle's office where she was instructed to proceed to the office of Della Haynes. There, Haynes told her that she was being discharged because she had not made her rate. Bennett remonstrated that she had made her rate on the rivet base job and that there was no complaint concerning her work on that job, a fact of which Haynes acknowledged she was aware. Apparently construing this as a request by Bennett that she be transferred back to that job or remain in Respondent's employment in another capacity, Haynes told her she didn't "have anything else except night shift on stick winding," 13/ the very operation which she had just been declared to be incapable of performing satisfactorily. 14/

Bennett designated the Union as her collective-bargaining representative on March 29, 1966, on a card given to her by Felty. She attended all union meetings except the first, became a member of its organizing committee in April 1966, and wore its button since about 2-3 weeks before the May 12 election. During the campaign, she passed out union cards and literature in the restroom or before work in the morning.

About 2 weeks before the election, Bennett and about 15-20 girls were called to the "chapel" for an address by Sarkes Tarzian. When Tarzian told the employees that they "didn't need a third party" to tell them what to do, Bennett publicly announced she was "100 percent for the Union and hoped that when the /election/ came those girls would make the right decision." Three or four days before the May 12 election, Mary Tarzian, the wife of Sarkes Tarzian and vice president of Respondent, also called a meeting of employees in the chapel. During "a question and answer period" at that meeting, Mrs. Tarzian asked Bennett whether she ever belonged to "the Union and she replied that she was 100 percent for the Union." During a discussion concerning working conditions at the nearby RCA plant whose employees were apparently represented by a union, Mrs. Tarzian named Sue Crowe as an employee who "was fired from RCA within 3 days after she went there", and that she, Mrs. Tarzian, had proof of the conditions that prevailed at RCA. In the discussion, Mrs. Tarzian told Bennett that "maybe /she/ should go where they have /a union/ and see what its like," quickly adding, however, that she did not want Bennett to quote her as saying that she had been "told . . . to leave," as Respondent would "like to have /her/ stay anyway." 15/ On the following day, Bennett was called to Mrs. Tarzian's office, and, pointing to a girl then present, Mrs. Tarzian said: "Here is the girl that can tell you." The girl, though not otherwise identified, was not Sue Crowe. According to Bennett, "all this girl succeeded in telling /her/ was that some women . . . at RCA had been absent from work because of illness of her child . . ." At that point, Bennett's testimony was abruptly broken into and diverted, and it seems reasonable to infer, from Mrs. Tarzian's remarks of the day before, that the girl had been summoned to Mrs. Tarzian's office for the purpose of relating to Bennett some disciplinary action imposed upon her.

13/ Bennett's entire testimony warrants the conclusion that she was employed on the day shift.

14/ Haynes was not called upon to testify in the instant proceeding. In the prior proceeding against Respondent (157 NLRB No. 96) she was found guilty of extensive surveillance and spying upon Respondent's employees.

15/ Neither Sarkes Tarzian, nor Mrs. Tarzian, were called upon to testify herein.

On the entire record, I find that Bennett was denied further employment by Respondent on and after June 15, 1966, because of her union activities and her firmly announced "100 percent" support of that organization. Respondent does not deny, as indeed it could not deny, being aware of Bennett's active interest in the Union for, insofar as the record discloses, Bennett and Felty were among the most active union propagandists employed by Respondent. Assuming that Bennett's failure to meet her quota on the stick winding job was due to her inaptitude thereby justifying her removal from that task, Respondent offered no testimony to establish why, contrary to its established policy and its continuing advertising campaign seeking new employees, it failed to assign her to any of the several other jobs Bennett had performed satisfactorily before she was transferred to a job she apparently could not perform.

Respondent made such transfers with respect to Betty McLaughlin who was transferred to stick winding at the same time as Bennett. When McLaughlin told Foreman Trinkle that she would quit unless she was transferred back to the job she formerly had, Trinkle sent her back to her old job. Respondent also applied its policy and gave considerate treatment to Sandra Laven who was first employed by Respondent on or about May 19, 1966. Laven, like Bennett, was discharged on June 15 for failure to make her rate as a stick winder. Unlike Bennett, however, Laven was told by Haynes when she was discharged on June 15, 16/ that she would "see if something might come up later." Accordingly, and again unlike Bennett, Laven was reemployed on July 20 doing test work, and was so engaged at the time of the hearing herein.

I am convinced and find that Respondent discharged Bennett on June 15 without any intention of ever employing her in any capacity because of her union activities and to discourage its employees from engaging in any further attempt to designate the Union as their collective bargaining representative. Respondent was aware on June 15 that the Union had reduced the margin of 669 by which it lost the first election in 1963, to 96, by which number it lost the election on May 12, 1966. It accordingly had reason to believe that the union campaign for recognition, which had been continuously waged since April 1962, was mounting and would not abate. To defeat that campaign, Respondent on June 15, as it did with respect to Robertson on May 19, resorted to the most powerful weapon it possessed, a major stratagem of those bent on interfering with the exercise of employees' rights to organize, the discharge of a bold and forceful advocate in behalf of the Union. By that conduct, Respondent violated Section 8(a)(1) and (3) of the Act. 17/

The Objections to the Election

Of the Union's 6 objections to the election which I am required to consider, I find no probative evidence sufficient to sustain objections Nos. 1, 3, and 7. Objections Nos. 2 and 6 deal with unlawful surveillance of Respondent's employees of which I have heretofore found

16/ The vacation period began at about that time.

17/ In another proceeding against Respondent not previously referred to, but of which I have taken official notice, the Board found Respondent guilty of violating Section 8(a)(3) of the Act by requiring an employee to perform work which it knew he was incapable of performing. Sarkes Tarzian, Inc., 149 NLRB 1417.

Respondent guilty and as being violative of the Act. In accordance with those findings, I sustain the Union's objection Nos. 2 and 6. ^{18/} Objection 4 is concerned inter alia, with the effect that the discharge of Felty had on the outcome of the election. It having previously been found that Felty was discriminatorily discharged prior to the election and while the Union's campaign was pending, I accordingly sustain its objection No. 4. On the basis of the foregoing findings and rulings, I further find and conclude that Respondent interfered with the election of May 12, 1966, and deprived its employees of their freedom of choice. I therefore recommend that the election of May 12, 1966, be set aside.

IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondent set forth in section III above, occurring in connection with its operations described in section I, above, have a close, intimate and substantial relation to trade, traffic, and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that Respondent has engaged in certain unfair labor practices, it will be recommended that it be ordered to cease and desist therefrom and that it take certain affirmative action designed to effectuate the policies and purposes of the Act.

It is recommended that Respondent offer employees Agnes O. Felty, Reva Robertson, and Bobby L. Bennett immediate and full reinstatement to their former or substantially equivalent positions, positions that will not be injurious to their health and which it knows they can perform, without prejudice to seniority and other rights and privileges, and make them whole for any loss of earnings they may have suffered by reason of the discrimination against them, by payment to them of a sum of money equal to that which they would have earned as wages from the date of the discrimination against them to the date of offer of reinstatement, less interim earnings, in a manner consistent with Board policy set out in F. W. Woolworth Company, 90 NLRB 289, and Crossett Lumber Company, 8 NLRB 440, together with interest at the rate of 6 percent per annum as prescribed by the Board in Isis Plumbing & Heating Co., 138 NLRB 716.

I further recommend that Respondent preserve and make available to the Board or its agents, upon request, for examination and copying, all payroll records, social security payment records, timecards, personnel records, and reports, and all other records and reports necessary to analyze the amount of backpay due and the right to reinstatement under the terms of these Recommendations. In order to make effective the interdependent guarantees of Section 7 of the Act, I recommend that the Respondent cease and desist from, in any manner, infringing upon the rights guaranteed in that section. N.L.R.B. v. Express Publishing Co., 312 U.S. 426; N.L.R.B. v. Entwistle Manufacturing Co., 120 F. 2d 532 (C.A. 4).

^{18/} While objection No. 2 complains of the surveillance of "non-union adherents", I am convinced that this was an inadvertent description, and that its intent was to complain of the effect on Union adherents.

Upon the basis of the above findings of fact and upon the entire record in the proceeding, I make the following:

Conclusions of Law

1. Respondent is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. By discriminating in regard to the rehire or tenure of employment of Agnes O. Felty, Reva Robertson, and Bobby L. Bennett, thereby discouraging membership in the above Union, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) of the Act.

4. By engaging in interference, restraint, and coercion of its employees in the exercise of rights guaranteed in the Act, Respondent has engaged, and is engaging, in unfair labor practices as proscribed by Section 8(a)(1) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

RECOMMENDED ORDER

Upon the basis of the above findings of fact and conclusions of law, and upon the entire record in the case, it is recommended that Sarkes Tarzian, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging its employees from membership in, or activities on behalf of, the Union or any other labor organization, by assigning them to work they are unable to perform without injury to their health, or which Respondent knows they are otherwise incapable of performing, or in any other manner discriminate against them in regard to their hire or tenure of employment, or any term or condition of employment, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the Act,

(b) Engaging or soliciting employees to engage in surveillance of the union activities of other employees.

(c) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Offer Felty, Robertson, and Bennett, full reinstatement to their former or a substantially equivalent position without prejudice to their seniority or other rights or privileges, and make them whole, all in the manner set forth in "The Remedy."

(b) Post at its plant, and offices at Bloomington, Indiana, copies of the notice attached hereto marked "Appendix." 19/ Copies of said notice, to be furnished by the Regional Director for the Twenty-fifty Region, shall, after being signed by Respondent's representative, be posted by Respondent immediately upon receipt thereof and maintained by it for 60 consecutive days thereafter, in conspicuous places, where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for the Twenty-fifth Region, in writing, within 20 days after receipt of this Decision and Recommended Order what steps have been taken in compliance. 20/

Dated at Washington, D. C.



David London
Trial Examiner

- 19/ In the event that this Recommended Order shall be adopted by the Board, the words "A DECISION AND ORDER" shall be substituted for the words "THE RECOMMENDED ORDER OF A TRIAL EXAMINER" in the notice. In the further event that the Board's Order is enforced by a decree of a United States Court of Appeals, the words "A DECREE OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER" shall be substituted for the words "A DECISION AND ORDER."
- 20/ In the event that this Recommended Order be adopted by the Board, this provision shall be modified to read: "Notify said Regional Director, in writing, within 10 days from the date of this Order what steps the Respondent has taken to comply herewith."

NOTICE TO ALL EMPLOYEES

PURSUANT TO

THE RECOMMENDATIONS OF A TRIAL EXAMINER OF THE
NATIONAL LABOR RELATIONS BOARD

and in order to effectuate the policies of the

NATIONAL LABOR RELATIONS ACT
(AS AMENDED)

we hereby notify our employees that:

WE WILL NOT discourage membership in INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, or any other labor organization, by discharging, constructively or otherwise, or refusing to reinstate any of our employees, or in any manner discriminating in regard to their hire or tenure of employment, or any term or condition of employment.

WE WILL NOT assign any of our employees to work which they are unable to perform without injury to their health, or which we know they are otherwise incapable of performing.

WE WILL NOT engage, or solicit any of our employees to engage, in spying or surveillance of the union activities of any of our employees.

WE WILL NOT interfere with the right of our employees to make a free choice in any election ordered by the National Labor Relations Board.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the above-named or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any and all such activities.

WE WILL offer to Agnes O. Felty, Reva Robertson, and Bobby L. Bennett, immediate and full reinstatement to their former or a substantially equivalent position without prejudice to seniority and other rights and privileges, and make them whole for any loss of pay suffered as a result of the discrimination against them.

All our employees are free to become, remain, or refrain from becoming or remaining members of the above-named union, or any other labor organization.

SARKES TARZIAN, INC

(Employer)

Dated By (Representative) (Title)

NOTE: We will notify the above-named employees, if presently serving in the Armed Forces of the United States, of their right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act of 1948, as amended, after discharge from the Armed Forces.

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they should contact the Regional Office, 614 ISTA Center, 150 West

TRANSCRIPT

1 MR. MERCER: Would you so stipulate, Mr. Hill?

2 MR. HILL: Respondent will stipulate.

3 MR. MERCER: I offer General Counsel 18.

4 TRIAL EXAMINER: The stipulation is approved and
5 General Counsel 18 is received in evidence.

6 (The document heretofore marked
7 General Counsel's Exhibit No. 18
for identification was received.)

8 MR. MERCER: As General Counsel 19 I offer the . .
9 stipulation this is an internal office memorandum taken
10 from the personnel file of Bobby Bennett.

11 The subject of the memorandum is the employee Bobby
12 Bennett and is sent from one, Della Haynes who is a
13 personnel counselor and serves as nurse with the Respondent.

14 (The document above referred to
15 was marked General Counsel's
Exhibit No. 19
16 for identification.)

17 MR. MERCER: I offer General Counsel 19.

18 MR. HILL: No objection.

19 TRIAL EXAMINER: The stipulation is approved and the
20 exhibit is received, 19.

21 (The document heretofore marked
22 General Counsel's Exhibit No. 19
for identification was received.)

23 MR. MERCER: I ask permission to withdraw 17, 18 and
24 19 and substitute copies.

25 TRIAL EXAMINER: You may do so.

MR. MERCER: I propose the following stipulation.

1 That on April 30 and May second the Respondent ran the
2 following announcement over local Radio Station WTTS and
3 the announcement read as follows:

4 Sarkes Tarzian and plant needs assemblers and testers
5 for day and night work, also for clerical positions. Apply
6 Sarkes Tarzian personnel office, East Hillside Drive. Open
7 Saturday until noon.

8 MR. HILL: Respondent will so stipulate.

9 TRIAL EXAMINER: You had the date in there, didn't you?

10 MR. MERCER: Yes. That was April 30 and May 2, 1966,
11 sir.

12 BY MR. MERCER:

13 Q In that regard, Mr. Sears, are you still running that
14 advertisement at WTTS?

15 A Yes, we are, or a similar ad, very substantially the
16 same.

17 Q When did you start running that ad this year?

18 A We run the ad off and on. People are in scarce supply
19 in this community.

20 Q Have you run it off and on since January of 1966?

21 A Yes, we have it on quite a lot.

22 Q Mr. Sears, I hand you what has been marked General
23 Counsel's Number 20 which purports to be a page of the
24 Bloomington Tribune for Wednesday of last week, September 21,
25 1966, and ask you if you know if this ad was placed by your

1 company?

2 A Yes, it has.

3 (The document above referred to
4 was marked General Counsel's
5 Exhibit No. 20 for
6 identification.)

7 BY MR. MERCER:

8 Q Can you tell me how long that had been run?

9 A This ran one time.

10 Q The Bloomington Tribune is a new newspaper in the
11 community, is that right, sir?

12 A Yes, that's right.

13 Q Prior to the birth of the Bloomington Tribune, did
14 you run similar ads in the Bloomington Herald Telephone
15 newspaper?

16 A No, sir.

17 Q You did not run employment ads with them?

18 A No. Well, it would be for a particular job.

19 Q But not a big ad of this nature?

20 A That one never appeared.

21 MR. MERCER: Mr. Trial Examiner, I offer General
22 Counsel 20, a copy of this ad and ask Respondent to stipulate
23 this is a true copy of an ad appearing in the Bloomington
24 Tribune on Wednesday, September twenty first, 1966, placed
25 there by the Respondent.

MR. HILL: Respondent will so stipulate.

TRIAL EXAMINER: Any objection to the exhibit?

1 MR. HILL: No objection.

2 TRIAL EXAMINER: It may be received.

3 (The document heretofore marked
4 General Counsel's Exhibit No. 20
for identification was received.)

5 TRIAL EXAMINER: What was the date of this publication,
6 September what?

7 MR. MERCER: September 21, sir, this year.

8 BY MR. MERCER:

9 Q Mr. Sears, do you recognize seniority or to put it
10 another way length of service at Sarkes Tarzian?

11 A Yes, sir.

12 Q Do you have a plantwide seniority or is it departmental
13 seniority?

14 A We have both are considered.

15 Q Do you also recognize the factor of ability as compared
16 to seniority?

17 A Yes. Ability on the job is first.

18 Q In other words, ability to do the job would be
19 paramount over seniority as such?

20 A If a person cannot do his job he cannot be placed
21 in the job.

22 Q Are you telling us, sir, if your supervisor or
23 whoever would make such a determination was of the opinion
24 the person would not fit into a specific job that even
25 though they might be senior to another person they would not

1 be placed in an opening?

2 A The supervisor would be best qualified to know whether
3 that person could or could not do that job.

4 Q And if he felt that a person could not do a job who
5 had been there, for instance, 10 years, he might place a
6 person in a job in an opening who had only been there six
7 months, is that right, sir?

8 A It doesn't often happen. It's possible the person
9 could not do the job.

10 Q This would be up to his discretion, sir, or do you
11 make those decisions?

12 A It would be upon the recommendation of the supervisor.

13 Q Do you make the transfers of someone in your department?

14 A The transfers come through our department to our
15 department.

16 Q Who recommends the transfers?

17 A The supervisory people.

18 Q Do you have to approve them, sir?

19 A Yes we can.

20 TRIAL EXAMINER: Did you say we can or we do?

21 THE WITNESS: We do.

22 MR. MERCER: Do you personally do that, Mr. Sears,
23 or does your staff?

24 THE WITNESS: Not for routine jobs.

25 TRIAL EXAMINER: Wait a minute. What do you consider

1 routine jobs?

2 THE WITNESS: You might call a factor job similar,
3 unskilled.

4 BY MR. MERCER:

5 Q Do you have an employee in the personnel department by
6 the name of Anna East?

7 A No, sir.

8 Q Is there an Anna East that was out there?

9 A There's an Anna East in the company but not in the
10 personnel.

11 Q What department?

12 A Production.

13 Q Does she have something to do with assigning these jobs
14 to the employees?

15 A I assume she has some responsibility. She doesn't work
16 for me.

17 Q What is your understanding of her responsibility?

18 A She reports to Mr. Polley who is the production manager.

19 Q When she makes such an assignment that is not under
20 your jurisdiction?

21 A No, sir.

22 Q Do you know whether she does transfer people on occasion?

23 A No, sir, I don't.

24 Q Sir, is the company policy that if an employee has
25 difficulty or a problem with a particular type of job that

1 they have been working on, that the company will give them an
2 opportunity to try another job and thus stay with Sarkes
3 Tarzian firm?

4 A Yes. We've been pending over backwards you might say
5 in all our company history to give the people an opportunity.

6 Q As a matter of fact this is a policy of Mr. Tarzian,
7 Mr. Sarkes Tarzian himself as enunciated to the employees,
8 is it not, sir?

9 A I think it's pretty well known.

10 Q Mr. Sarkes Tarzian is the President of the Company?

11 A Yes, sir.

12 Q As the company is named for him?

13 A Yes, sir.

14 Q Your answer is yes?

15 A Yes, sir.

16 Q Do you require a statement or some sort of a certificate
17 from employees that they can physically do any different job
18 you might have in the plant?

19 A They indicate on their application they're physically
20 fit. At least there's two places on the application where
21 they indicate or whether they're handicapped on the reverse
22 side of the application, they indicate they're in good health
and free from defects.

23 Q Do you know Mrs. Helen La Shure?

24 A No, I don't.

25

1 Q Do you know is it a company policy if a person has been
2 on sick leave to require a statement that they can do any job
3 in the plant?

4 A If they've been on sick leave under a doctor's care
5 they require clearance from the doctor to return to work.

6 Q Clearance? Now, what do you mean by clearance?

7 A That they recovered from whatever ailment or the
8 disability was and they are able to return to work.

9 Q Have you ever put people back to work on different jobs
10 where they could not perform a specific job for some medical
11 reason but they could perform some other type of job?

12 A Normally they return to a job of similar nature.

13 Q But does this happen, sir?

14 MR. HILL: If you know.

15 MR. MERCER: If you know.

16 THE WITNESS: I don't know of any.

17 BY MR. MERCER:

18 Q You don't know of any?

19 A I don't know of any case. They normally return to the
20 job similar to the one which they left.

21 Q Are you telling us you think exceptions have been made
22 but you can't remember a specific one?

23 A No, I'm just saying I --

24 Q What are you saying?

25 A I'm saying a person when they go on leave of absence

1 returns to the job of similar nature as that which they left.

2 Q Is this a hard and fast rule or is this just what you try
3 and do if possible?

4 A It's what we do.

5 Q Without exception?

6 A Insofar as I know it is.

7 Q If I represent to you that Mrs. Felty who is involved
8 in this case was transferred back in 1965 for medical reasons,
9 would that change your answer, sir?

10 A No, because she no doubt came back into production
11 in a similar type job as what she left.

12 I don't know the specific job she was on when she came
13 back.

14 Q Let me put it to you this way. Do you know whether
15 she was transferred while she was still on production from an
16 area for medical reasons?

17 MR. HILL: To which we object. There is absolutely
18 no basis in this or any other evidence in this record to make
19 such a question relevant.

20 TRIAL EXAMINER: Objection sustained.

21 Are you saying it is a policy of the company to always
22 return an employee?

23 THE WITNESS: If she is a production worker she returns
24 to production or similarly to whatever she was doing.

25 TRIAL EXAMINER: But not necessarily to the same job?

1 THE WITNESS: It wouldn't be the identical job as
2 what she had.

3 TRIAL EXAMINER: It would be in production?

4 THE WITNESS: They're already trained.

5 TRIAL EXAMINER: Let us just assume for the sake of
6 argument when a production employee for some reason or other
7 or perhaps because she lost a finger, or maybe I took an
8 unfortunate circumstance, but for some reason or other comes
9 back and cannot do the identical job she was doing before,
10 do you still take her back in the production department?

11 THE WITNESS: Yes. If we can find a job which she can
12 do.

13 BY MR. MERCER:

14 Q Mr. Sears, when you speak of production department
15 how many jobs roughly are you talking about?

16 A How many different types of jobs?

17 Q How many total people are you talking about, volume,
18 working there?

19 A This varies.

20 Q All right. Give us your estimate.

21 A It might be 1500.

22 TRIAL EXAMINER: There might be?

23 THE WITNESS: 1500 people not jobs.

24 BY MR. MERCER:

25 Q Were there approximately 1500 or 1600 people in May

1 of this year?

2 A I expect somewhere in that vicinity.

3 Q Were they about the same 1500 or 1600?

4 A I would imagine so.

5 Q This covers three different plants, does it not, sir?

6 A Three different work areas.

7 Q That would be the Hillside plant, sir? What is your
8 primary product?

9 A Television tuners.

10 Q And the College Avenue plant that is the second plant,
11 sir?

12 A They make semi-conductive devices.

13 Q What is the third plant?

14 A The third plant is a service of tuners.

15 Q What is that plant called?

16 A We call it plant one building South Walnut Street.

17 TRIAL EXAMINER: Speak up a little louder.

18 THE WITNESS: It's a building on South Walnut we call
19 it plant one.

20 BY MR. MERCER:

21 Q Is that plant close to WTTS?

22 A It is.

23 Q WTTS which was previously mentioned here, that is a
24 Sarkes Tarzian radio station, is it, sir?

25 A Yes, sir.

1 MR. MERCER: I will pass the witness.

2 CROSS-EXAMINATION

3 BY MR. HILL:

4 Q Mr. Sears, you stated a person who could not do a job
5 would not be placed in that job.

6 I assume you mean by that or do you mean by that if
7 you know they can't handle the job they would not be placed
8 in that job?

9 A That's right.

10 Q Would there be occasions which might arise where you
11 might not know if a person could handle a job or not and
12 they would be placed in it and later find out they cannot
13 handle it?

14 A I think that could happen.

15 Q You also stated it is the company's policy if an
16 employee has difficulty, some particular difficulty, you would
17 give that employee another job.

18 Do you mean by that you would give them another job if
19 possible or if a job opens?

20 A If a job was available.

21 Q If a job were available?

22 A That's right.

23 Q You also mentioned that you would take back an employee
24 on sick leave after a required doctor's clearance had been
25 given if there was a job she can do.

1 Does the fact that an employee might have a different
2 pattern than that particular job calls for, does that have
3 any bearing on that?

4 A It sure would.

5 Q Would you explain that for us?

6 A She might have to wait until that job becomes available.

7 Q What is the job pattern, Mr. Sears, at your plant?

8 A It would be what we call crimp solder operators,
9 inspectors and testers, assemblers same as crimp and solder,
10 testers, inspectors.

11 Q You also have a pattern called machine operator?

12 A Machine operator.

13 Q When you reassign an employee who has difficulty or
14 take an employee back after sick leave, is her pattern taken
15 in consideration?

16 A Sure.

17 Q Is that a determining factor in the job she is taking
18 also?

19 A That's right.

20 Q In other words, if she did not have the job pattern
21 for a particular job that might have been opened, would she
22 be assigned to it?

23 MR. MERCER: Objection.

24 TRIAL EXAMINER: You may answer.

25 THE WITNESS: No, sir.

1 MR. HILL: That is all.

2 REDIRECT EXAMINATION

3 BY MR. DONNENFELD:

4 Q Mr. Sears, I have one question.

5 These patterns you discussed, are they set forth in
6 a written document?

7 A They are the result of years and years of experience
8 of testing these people.

9 TRIAL EXAMINER: The question was: Are they set forth
10 in writing?

11 THE WITNESS: No.

12 BY MR. DONNENFELD:

13 Q In any company publication?

14 A No company publication but the pattern is set in a
15 format which we have, the scores fall in certain areas, they
16 should be able to do certain types of jobs.

17 Q There are no publications on these?

18 A No publications.

19 REDIRECT EXAMINATION

20 BY MR. MERCER:

21 Q Mr. Sears, how do you determine what a person's pattern
22 is?

23 A By how they perform on tests which are given.

24 Q When you have a person, for example, working on crimp
25 and solder and they are transferred from crimp and solder to

1 some other job classification, what happens to their pattern
2 then?

3 A It's possible to re-test them.

4 Q Do you re-test every time you make a transfer like that?

5 A Not necessarily. They may have a high pattern and
6 decide to crimp and solder because that particular job wasn't
7 opened at the time.

8 Q Suppose a person is transferred do you reflect on your
9 records somewhere the person suddenly has a new pattern?

10 A Yes.

11 Q You are better with these files than I am.

12 I hand you Agnes Felty's file and ask you to look
13 through this. Take your time and see if you can find any
14 change in that file from a crimp and solder to a machine shop.

15 MR. HILL: We will stipulate there was no change in
16 her pattern.

17 THE WITNESS: This would require no change in her case.

18 BY MR. MERCER:

19 Q Why would that require no change?

20 A For inspector or tester.

21 Q What do you mean, sir?

22 A Well, we have --

23 Q (interrupting): Explain it to me.

24 A Inspector is one that requires high visual skill, high
25 learning aptitude.

1 A tester would require everything including vision,
2 high learning aptitude and good dexterity while the assembler
3 would require high dexterity.

4 Q So if you were transferred as an inspector or tester
5 from the crimp and solder area to the machine shop area, it
6 would not be reflected on the record?

7 A Maybe I should explain here who is --

8 Q (interrupting): My question to you, sir, is: If you
9 were transferred on an inspecting or testing job from the
10 crimp and solder area to the machine shop area, would this be
11 reflected in your records?

12 A The transfer would be reflected on the records.

13 Q The person would still be carried with a crimp and
14 solder pattern even though they were working in the machine
15 shop?

16 A That's possible because the machine shop is a lower
17 skill.

18 Q Suppose a person --

19 A (interrupting): Any assembler should be able to do
20 a machine shop job.

21 Q What is the difference in pay between an assembler,
22 a crimp and solder person and a machine job?

23 A No difference.

24 Q No difference in pay?

25 A No.

1 Q If a person after working in crimp and solder and then
2 spent two years, for example, in the machine shop, would you
3 then list them as a machine shop operator and not a crimp
4 and solder pattern?

5 A There's no pattern probably. It'd still be there
6 because they're working in a lower skill..

7 Q Even though the pay is the same?

8 A The pay is the same.

9 Q Why is the pay the same, sir, if it's a lower skill?

10 A The pay is the same for all these various jobs.

11 Q Regardless of skill?

12 A That's right.

13 MR. MERCER: No further questions.

14 RECROSS-EXAMINATION

15 BY MR. HILL:

16 Q You said the job patterns are determined by testing,
17 Mr. Sears.

18 Are job applicants tested when they apply for jobs
19 with the company?

20 A Excuse me. What?

21 Q Are job applicants tested?

22 A They're all tested.

23 Q Is that when the initial pattern is assigned?

24 A That's right.

25 MR. HILL: That is all.

1 TRIAL EXAMINER: This term job pattern, does that
2 mean job assignment or job description?

3 THE WITNESS: It's an indication of a job these people
4 should be able to do best.

5 It enables us to properly place them, to put round pegs
6 in round holes.

7 MR. MERCER: I have one question.

8 Are you familiar with the army term MOS?

9 THE WITNESS: Yes, sir.

10 MR. MERCER: Is it like an MOS number?

11 MR. HILL: Objection. What difference --

12 TRIAL EXAMINER (interrupting): I don't know what an
13 MOS number is and I've been in the army for 40 years.

14 MR. MERCER: Does this indicate to you a job pattern,
15 does this indicate in your personnel work that this is what
16 the person is supposed to be qualified to do, whatever this is?

17 THE WITNESS: He should be able to do that job.

18 TRIAL EXAMINER: Anything further?

19 MR. HILL: Nothing.

20 TRIAL EXAMINER: That is all. You may step down.

21 (Witness excused.)

22 TRIAL EXAMINER: We will take a five minute recess.

23 (A recess was taken.)

24 TRIAL EXAMINER: The proceeding will be in order.

25 AGNES OPAL FELTY

1 witness called by and on behalf of the General Counsel,
2 being first duly sworn, was examined and testified as follows:

3 TRIAL EXAMINER: Give us your full name and address
4 and speak up loud please.

5 THE WITNESS: Agnes Opal Felty, 2515 South Rogers
6 Street, Bloomington, Indiana.

7 DIRECT EXAMINATION

8 BY MR. MERCER:

9 Q Mrs. Felty, were you employed by Sarkes Tarzian?

10 A Yes, I was.

11 Q When did you start at Sarkes Tarzian?

12 A April 19, 16, 1962.

13 Q What was your first job with the company back in 1962?

14 A Crimp and solder.

15 Q What did you do in crimp and solder?

16 A Well I was taking little bugs or resistors and I'd
17 crimp them and then I'd take the solder iron and solder them
18 to the lug.

19 Q Would you solder them together?

20 A Yes.

21 Q How long did you continue crimp and solder work after
22 you started?

23 A Well, I would say approximately six or seven months.

24 Q What was your next job?

25 A Well I was transferred to the machine shop.

1 Q Who told you about that transfer?

2 A I believe it was Vance Young.

3 Q Is he a foreman out there?

4 A Yes, on line 4.

5 Q What is a line when you speak of a line, what is a
6 line?

7 A That is a group of girls that have different operations

8 Q What do they make?

9 A They're making television tuners.

10 Q That is at the Hillside plant?

11 A Yes, it is.

12 Q After your transfer to the machine shop what did you
13 do in the machine shop?

14 A I was on different items of machines.

15 Q Could you tell us some of the machines you worked on?

16 A I was on a shaft machine. On a base machine. I run
17 a drill press and just about any kind of a machine they had
18 in there to run.

19 Q How long did you continue in the machine shop?

20 A Well, it was from sixty two until sixty five.

21 Q In 1965 did you have another change in job?

22 A Yes, I did.

23 Q What job did you go to then?

24 A I went back to crimp and solder.

25 Q Who transferred you back?

- 1 A John McHenry.
- 2 Q He is another foreman out there?
- 3 A Yes, he is.
- 4 Q Is he over the machine shop?
- 5 A Yes, he is.
- 6 Q Were you the only person transferred in sixty five?
- 7 A No, I wasn't.
- 8 Q Were there others involved?
- 9 A A group of girls, I would say 20 or 30 girls.
- 10 Q What did they put you on then?
- 11 A Well they transferred me back to crimp and solder.
- 12 Q What did you work on then?
- 13 A I put contacts on stator bars.
- 14 Q Did this require soldering work?
- 15 A Yes. I was placed between two girls that were using
- 16 soldering irons.
- 17 Q Now, directing your attention to the latter part of
- 18 1965, did you have an illness?
- 19 A Yes, I did.
- 20 Q When was that?
- 21 A I had taken leave November twenty third, 1965.
- 22 Q When did you get sick?
- 23 A I don't remember the exact date but it was earlier in
- 24 the week.
- 25 Q In November?
- 25 A Yes, it was.

1 Q Mrs. Felty, I show you General Counsel Exhibit Number
2 6 and ask you if you know this Doctor Hibner?

3 A Yes, I do.

4 Q Did he give you that statement?

5 A Yes, he did.

6 Q I show you General Counsel Number 5 and ask you if
7 Doctor Hibner gave you that statement?

8 A Yes, he did.

9 Q Did you turn both of these over to the company?

10 A Yes, I did.

11 Q What was your medical problem?

12 A The solder fumes and smoke irritated my nose and
13 throat and choked me up I could not talk above a whisper.

14 Q By the way to whom did you give those statements
15 I just showed you?

16 A To Della Haynes, the nurse.

17 Q Did you then go on leave?

18 A Yes, I did.

19 Q What type of leave was that?

20 A It was a medical leave.

21 Q Did you eventually return to work?

22 A Yes, I did.

23 Q When did you go back to work?

24 A December 13, 1965.

25 Q Did you obtain some sort of clearance from your

1 doctor?

2 A Yes, I did.

3 Q Was it the thirteenth that you actually began to work?

4 A Yes, it was.

5 Q Who did you report to on that date when you first went
6 in?

7 A Well I reported to Ann East.

8 Q Where does she work?

9 A She was working in the production office. I don't know
10 her exact title of her job but she's the one that takes the
11 new girls and turns them over to the foreman and on the line.

12 Q Does she work with Mr. Polley?

13 A She works out of his office.

14 Q What happened, what did Mrs. East do?

15 A Well she'd take me out to line 4 again and turned me
16 over to Bill Reynolds. He was foreman on line 4.

17 Q What did Mr. Reynolds have you do?

18 A Well he'd take me back down and put me back on stator
19 bars.

20 Q Now, did you have any difficulty that day?

21 A Yes, I did.

22 Q What difficulty did you have?

23 A Well the solder fumes and smoke started choking me up
24 again, irritating my throat and nose.

25 Q Did you visit your doctor again?

1 A Yes, I did.

2 Q Did you take a statement to the company?

3 A Yes, I did.

4 Q When did you take the next statement?

5 A I'd taken it on a Monday.

6 Q What month was this?

7 A That was in December.

8 Q Who did you take it back to?

9 A I had taken it to Della Haynes.

10 Q What did Mrs. Haynes tell you to do?

11 A Well, she told me to go back out on the line and she
12 would send Ann East out.

13 Q What happened then when Ann East came out?

14 A Ann East talked to Bill Reynolds. I don't recall what
15 they said because I couldn't hear it.

16 Then Bill come down and he said, "Agnes," he said,
17 "Well you go with me up in test and work up in test for a
18 while." So I went up in test with Bill and worked on line
19 4 in test.

20 Q What did you do in test?

21 A I was straightening little blades that had been bent
22 in the tuner.

23 Q How long did you work on that job?

24 A Well I worked there a day or so.

25 Q Where did you work after that?

1 A Then I went back to the machine shop and I worked
2 back in the machine shop.

3 Q Now, did you have any problem with soldering fumes in
4 the machine shop?

5 A No, I did not.

6 Q Did you have any problem with soldering fumes when you
7 were working on straightening these blades?

8 A No, I did not.

9 Q Now, what was your next assignment after the machine
10 shop?

11 A Well, they assigned me to line 8 on rivet beds.

12 Q What do you do on rivet beds?

13 A I would put the base on the machine. I would staple
14 a number on it. Then I would put the base on the line and
15 I would put 3 little contacts in a solder ring. Then I
16 would send it on down the line to the next girl.

17 Q Is this an assembly line?

18 A Yes, it is.

19 Q Did this require you to do any soldering?

20 A No, it did not.

21 Q Was there soldering in that area anywhere around you?

22 A Not real close, no.

23 Q How close was the nearest soldering?

24 A Well, I would say about five or six foot from me.

25 Q What was five or six feet from you?

1 A Well, it would be approximately as far from me, from
2 here to the cabinet.

3 Q What were they doing five or six feet from you?

4 A Well, the bases went through an electric oven that
5 done the soldering.

6 Q Now, does this oven does this have any ventilation
7 do you know?

8 A Yes, it did.

9 Q What type of ventilation?

10 A Well I suppose a floor fan in the oven.

11 Q Do you know if it gives off fumes?

12 A No, it did not.

13 Q What was the next closest soldering to you?

14 A Well I would say about 15 foot further on up the line.

15 Q On this line what would they be doing? The soldering.

16 A They were using soldering irons and soldering the parts
17 that had been put in.

18 Q When you say "they," do you mean one of the girls on
19 the line?

20 A Yes.

21 Q Did you have any problem with fumes on the rivet base
22 job?

23 A No, I did not.

24 Q Mrs. Felty, I show you what has been marked as
25 General Counsel's Number 21 and ask you if that is your

1 signature on that Union card?

2 A Yes, it is.

3 (The document above referred to
4 was marked General Counsel's
5 Exhibit No. 21 for
6 identification.)

7 Q I hand you General Counsel's 22 and ask you if that
8 is your signature on that card?

9 A Yes, it is.

10 (The document above referred to
11 was marked General Counsel's
12 Exhibit No. 22 for
13 identification.)

14 Q I hand you General Counsel's 23 and ask you if that
15 is your signature?

16 A Yes, it is.

17 (The document above referred to
18 was marked General Counsel's
19 Exhibit No. 23 for
20 identification.)

21 Q I hand you General Counsel's Number 24 and ask you if
22 that is your signature?

23 A Yes, it is.

24 (The document above referred to
25 was marked General Counsel's
Exhibit No. 24 for
identification.)

MR. MERCER: I offer General Counsel's 21 through 24.

TRIAL EXAMINER: Any objection?

MR. HILL: No objection.

TRIAL EXAMINER: They may be received.

(The documents heretofore marked General Counsel's Exhibits Nos. 21 through 24 for identification were received.)

BY MR. MERCER:

Q Were you present during 1962 when the IBEW was trying to organize?

A Yes, I was.

Q Did you belong to any Union committee?

A Yes, I did.

Q What committee did you belong to?

A Volunteer Organizing Committee.

Q When did you first join the organizing committee?

A Well I believe it was in May. I'm not sure on that date or month but it was in sixty two.

Q At the time you left Tarzian in 1966 were you still a member of the organizing committee?

A Yes, I was.

Q Was there any time from sixty two to sixty six in which you resigned from it?

A No it was not.

Q Now turning back to 1962, did you ever pass out any Union literature in 1962?

A Yes, I did.

Q What did you pass out?

A In the plant, Hillside.

Q How many times did you do that?

1 A Well, quite a few times. I don't know the exact times.

2 Q Referring now again to 1962 before the 1963 election,
3 did you ask any employees to sign Union cards?

4 A Yes, I did.

5 Q Did you pass out any Union cards to the employees?

6 A Yes, I did.

7 Q Where did you pass these cards out?

8 A That was in the plant at Hillside.

9 Q Can you tell us approximately how many cards you
10 actually did pass out personally?

11 A Well I would be safe in saying it was over a hundred.

12 Q Do you recall any specific individuals that you gave
13 cards to in 1962, 1963?

14 A Yes. I gave Sadie Van Over a card.

15 I gave Lou Anna Reynolds a card. And quite a few more,
16 I don't remember just exactly.

17 Q Now turning to the year 1966, did you attend any
18 organizing committee Union meetings?

19 A Yes, I did.

20 Q When was the first one that you attended in 1966?

21 A March 17, 1966.

22 Q Where was that meeting held?

23 A That was in the Union hall on --

24 Q Now, was this an open meeting or just organizing?

25 A Just for the organizing.

1 Q Did you obtain any Union cards at that meeting?

2 A Yes, I did.

3 Q What did you do with those cards?

4 A I went right back to the plant the next day and started
5 passing them out.

6 Q About how many did you take on the seventeenth?

7 A Around 20 or 30 cards. I'm not exact.

8 Q Do you recall any specific individuals that you asked
9 to sign cards?

10 A Yes. I asked Bobby Bennett to sign one. I asked
11 Sharon Mundy to sign one. I asked Beverly Skinner to sign
12 one. Betty Carter to sign one. Margaret Hartpin to sign one.

13 At that time I believe that's all I remember.

14 Q Where were you when you asked these people to sign these
15 cards?

16 A I was in the plant on my lunch hour.

17 Q Did you attend any meeting after the March 17 Union
18 meeting?

19 A Yes, I did.

20 Q What was the next meeting you attended?

21 A That was March twenty third, 1966.

22 Q Was that also an organizing committee?

23 A Yes, it was.

24 Q That was at the Union hall?

25 A Yes, it was.

1 Q Did you take any more cards at that meeting?

2 A Yes; I did.

3 Q How many did you take that day?

4 A Well, I'd say 30, 35, maybe more.

5 Q What did you do with those cards?

6 A I passed them out at the plant.

7 Q Did you attend any additional Union meetings in 1966?

8 A Yes, I did.

9 Q What was the next meeting you attended?

10 A Well, the next meeting of the organizing committee
11 meeting was March thirty first, 1966, April 20, 1966 and I
12 attended open meetings on April 6 I believe, 1966 and
13 April 14, 1966.

14 Q Now turn to the April sixth meeting, that was an
15 open meeting?

16 A Yes, it was.

17 Q What do you mean by an open meeting?

18 A Well, anyone that wanted to come went to the meeting.

19 Q Did you take any cards at that meeting?

20 A Yes, I did.

21 Q Who did you give these cards to, when you get a card
22 back signed what did you do with it?

23 A I'd take it back to the Union hall.

24 Q Who would you give the cards to?

25 A Michael Lucas, the representator.

1 Q When did you do this?

2 A The next meeting that I would go to.

3 Q I call your attention to the April sixth meeting.

4 Do you recall whether you returned any cards to Mr. Lucas
5 at that meeting?

6 A Yes, I did.

7 Q Speaking of signed cards now.

8 A Yes, I did.

9 Q Did you mention an April 14 meeting?

10 A Yes.

11 Q Now, was that an open meeting or just a committee?

12 A That was an open meeting I believe.

13 Q Did you take any additional cards at that meeting?

14 A Yes, I did.

15 Q Did you pass those out?

16 A Yes, I did.

17 Q What did you do with the ones you got back signed?

18 A I'd taken them back to the Union hall and turned them
19 in to Michael Lucas, the representator.

20 Q When did you do that?

21 A That would be the next meeting.

22 Q When was the next meeting after the fourteenth?

23 A That was April 20.

24 Q Directing your attention now to April 19 of this year,
25 was there any change in your job assignment on that date?

1 A Yes, there was.

2 Q Who told you about the change?

3 A Ruby Robertson, assistant foreman.

4 Q What did she tell you?

5 A She told me not to start the line that morning that it
6 had been broken up.

7 Q What happened then?

8 A Well, she told the girls on the line where to go and
9 she came to me and she told me to report to line 4, to Vance
10 Young.

11 Q Did all of you go to line 4?

12 A No, we did not.

13 Q Did you know some of these people who were working on
14 this line before it was broken up, by name would you know
15 these individuals?

16 A Yes, I did.

17 Q Do you know where some of the others were sent?

18 A Well, there was a girl I don't remember what her first
19 name was but her last name was Vince and she was transferred
20 to line 4 and Margaret Hopkins was transferred to line 4.

21 Q Where were some of the others sent?

22 A Some of them were transferred to the tube room and I
23 don't know where the rest of them was transferred.

24 Q Do you know what job was Margaret Hopkins put on?

25 A She was placed on rivet base.

1 Q Had you been there a shorter time or a longer time
2 than Margaret Hopkins?

3 A Longer time than Margaret Hopkins.

4 Q Do you remember when she came to work there?

5 A Well she had been there about four or five months.

6 Q At this time?

7 A At this time.

8 Q What did they put you doing on line 4?

9 A Well I reported to Vance Young and he said, "I don't
10 need you." He said, "I'll have to take you in to Polley's
11 office." He said, "I'm aware of your doctor's statement and
12 I can't place you."

13 Q Now, Mr. Young is a foreman?

14 A Yes, he was.

15 Q When you mentioned Polley, are you speaking of Mr.
16 Jennings Polley?

17 A Yes, I am.

18 Q After he told you this what happened, did he take you
19 to Mr. Polley's office?

20 A Yes, he did.

21 Q Was this the same day?

22 A Yes, it was.

23 Q Who said what, tell us, first, did you see Mr. Polley
24 in his office?

25 A Yes, we did.

1 Q Did Mr. Young go with you?

2 A Yes, he did.

3 Q Was he there during the conversation?

4 A No, he wasn't.

5 Q Just you and Mr. Polley?

6 A Yes.

7 Q Tell us what Mr. Polley said and what you said.

8 A Well, Mr. Polley said that I had a crimp and solder
9 pattern and he was aware of the doctor's statement that was
10 on file but crimp and solder was all that he had for me.

11 And he said, "You report back on the line and Vance
12 Young will place you." And he said, "I have other jobs that
13 I could put you on but I don't intend to do it because I
14 have to save them for older girls."

15 Q What did you do then or where did you go?

16 A I reported back on line 4, Vance Young.

17 Q What did Mr. Young have you do?

18 A Mr. Young placed me between two girls that were using
19 soldering irons.

20 Q Do you know a person named La Verne Banks?

21 A Yes, I do.

22 Q Did you have a conversation with Mr. or Mrs. Banks
23 that day?

24 A Yes. I told her I didn't think I could sit and solder.

25 Q Why, did you have any trouble with fumes that day?

1 A Yes, I did.

2 Q Directing your attention now to the following day,
3 when you came in the next day who did you first go to see?

4 A I punched my time card and I went straight to Della
5 Haynes, the nurse.

6 Q What did you tell Della?

7 A I told Della I was going to have to be moved out of
8 solder that I just couldn't take the solder fumes and smoke.

9 Q What did she tell you?

10 A She told me she couldn't do anything for me that I
11 would have to see Ann East.

12 Q Did you go to see Ann East?

13 A Yes, I did.

14 Q What did Miss East tell you?

15 A Ann said she couldn't do anything for me that she
16 would have to take me to see Polley.

17 Q Did you go and see Mr. Polley?

18 A Yes, I did.

19 Q This was all the same day?

20 A Yes, it was.

21 Q Was anyone there when you talked to Mr. Polley?

22 A No, there wasn't.

23 Q Tell us what you said to Mr. Polley and what Mr.
24 Polley said to you.

25 A I said, "Polley," I said, "Will you transfer me out of

1 that solder?" He said, "You have a crimp and solder pattern
2 and crimp and solder is all I've got for you. If you can't
3 work in crimp and solder I'll probably have to let you go."

4 Q Did you make any remark?

5 A I said, "I can't work in solder fumes. You have my
6 statement." And he said, "Well, go back on the line and
7 I'll see what can be done for you." He said, "It won't take
8 long."

9 Q Do you recall anything else being said during this
10 conversation with Mr. Polley?

11 If you don't know just say so.

12 A I don't know.

13 Q Do you recall anything being said about a phone call?

14 A Yes, I do.

15 He asked me, he said, "Have you called your doctor?"
16 And I said, "Yes, I have." And he said, "Did you call him
17 from the plant?" And I said, "No, I didn't. I called him
18 from home." He said, "Well you made a phone call from here
19 yesterday, didn't you?" I said, "Yes, I did." But he
20 didn't ask me who I called.

21 Q Did Mr. Polley make any remarks about whether he did
22 or did not have other jobs?

23 A Well, he just told me he had other jobs he could put
24 me on but he didn't intend to do it, he had to save it for
25 older girls.

1 Q Did he explain what he meant by older girls?

2 A No, he didn't.

3 Q Now did you report back to the line then?

4 A Yes, I did.

5 Q Who did you report to?

6 A I reported to Vance Young.

7 Q .This is the foreman you previously --

8 A Yes, it was.

9 Q What did he have you do?

10 A He put me right back between two soldering irons.

11 Q Did you work there then for a while?

12 A Yes, I did.

13 Q Did you see Mr. Young again after he placed you between
14 the two girls?

15 A Yes. About 15 minutes later he came to the line with
16 a fan. He turned it directly in my face and it started me
17 to smothering and choking worse.

18 Q What kind of a fan was this?

19 A I would say about a six or eight inch fan.

20 Q This was a floor fan or table?

21 A A little table fan.

22 Q Now, where was the fan in relation to yourself?

23 A It was placed on the back side of the conveyor line.

24 Q Was it facing you or was it facing towards your back
25 or towards your face?

1 A It was facing right in my face.

2 Q Did this bother you?

3 A Yes it did. It blowed the smoke and fumes directly
4 in my face.

5 Q Did you have any conversation with him about that?

6 A I told La Verne I couldn't sit there any longer, that
7 I just couldn't stand that smoke.

8 Q Now when you say La Verne?

9 A That was La Verne Banks, assistant foreman.

10 Q Did you see Mr. Young again that day?

11 A Yes.

12 Q About when was this?

13 A Well this was about 20 minutes later I would say.

14 Q About what time of the day are you talking?

15 A This was of a morning. I started talking to him, well,
16 I would say about 8:00 o'clock.

17 Q When did you start work that day?

18 A Seven o'clock in the morning.

19 Q When you say Mr. Young again what happened?

20 A Well he brought a relief girl down there and he said,
21 "Agnes, if you feel that bad you can just go home right now."

22 Q Did he have the girl with him?

23 A Yes.

24 Q What did you say to that?

25 A I said, "All right." And I got up and left the line.

1 Q Did you leave the plant then?

2 A Yes. I was checked out through the dispensary and I
3 left the plant and that was at 8:30 that morning.

4 Q Now, did you visit your doctor as a result of this?

5 A No it was not.

6 Q I said, "Did you visit?"

7 A Yes I did.

8 Q That evening or that day sometime?

9 A No. I couldn't get in to see the doctor until Saturday.

10 Q This is Doctor Hibner that we talked about?

11 A Yes it was.

12 Q Now when did you go back to work?

13 A I went back on a Monday. I believe it was the twenty
14 fifth.

15 Q Who did you first report to on that day?

16 A I reported to Della Haynes the nurse.

17 Q What did you first do when you saw Della?

18 A I give her the doctor's statement.

19 Q What happened then?

20 A And she said, "I can't do anything for you. You will
21 have to see Ann East."

22 Q Did you go see Ann East?

23 A Yes I did.

24 Q What did Ann East tell you?

25 A I gave Ann East my statement and she said, "Well I

1 can't do anything for you. You'll have to see Polley --

2 Q (interrupting): Did you see Mr. Polley?

3 A Yes and she said, "Report to Polley's office."

4 Q Was Ann there when you talked to Mr. Polley in his
5 office?

6 A No she wasn't.

7 Q Was anybody there besides you and Mr. Polley?

8 A No there wasn't.

9 Q Tell us what you said and what Mr. Polley said.

10 A Well Polley had taken my statement and he started
11 walking out the office and he said, he didn't say anything,
12 and he was gone for about ten minutes and he came back and
13 he said, "Will you go with me into Della Haynes office?" And
14 I said, "Yes I will."

15 Q What happened then?

16 A Well we went in there and he said, "Agnes," he said,
17 "You have forced me to put you on medical leave." And I
18 said, "I haven't forced you to do nothing." And he said,
19 "Well I tried to get you to take this leave for Wednesday,"
20 which I hadn't talked to Polley on Wednesday, it was on a
21 Tuesday.

22 Q Just what happened.

23 A And so he said, "Have you got your tools with you?"
24 I said, "Yes. I'll check them in." And he said, "I'll call
25 the tool crib and turn them in myself," so he did. So he said,

1 "I'll get your insurance papers and leave of absence to you,
2 I'll mail them." And I said, "Well I'll pick up my check on
3 a Friday." He said, "I'll mail your check to you." And
4 I said, "I'd rather come out to the plant and pick it up."
5 He said, "I'll mail your check to you on a Thursday." And
6 he said, "I cannot stand to let the company have a lawsuit
7 on account of your health."

8 So we got up and walked out of Della Haynes office
9 and Polley followed me. So I said when we got out of the
10 personnel office, I said, "I've got to pay the girl that I
11 ride with." And he said, "You can pay her that this
12 afternoon." And I said, "I will not see her." He said,
13 "I've got to get you out of this plant before you collapse."
14 So he escorted me to the outside front door of the lobby and
15 I left.

16 Q Now, Mrs. Felty, did you receive your check through
17 the mail?

18 A No I did not.

19 Q How did you get your check?

20 A Well, Friday I didn't get no check. Saturday I
21 didn't get no check.

22 About 6:00 o'clock Saturday afternoon I called Mr.
23 Polley up and I said, "Why haven't I got my check?" He said,
24 "I forgot to mail it to you." I said, "You promised me
25 definitely you would mail it." He said, "Well you'll get
your check in the morning." He said, "I'll bring it to you

1 A Yes, I did.

2 Q Which type of badge did you wear, Organizing Committee
3 or Vote IBEW?

4 A Organizing Committee.

5 MR. MERCER: Mark this General Counsel's 25.

6 (The pin was marked General
7 Counsel's Exhibit No. 25 for
identification.)

8 BY MR. MERCER:

9 Q Mrs. Felty, I hand you what has been marked on the back
10 General Counsel 25 and ask you if that is the type of pin
11 you wore?

12 A Yes, it was.

13 Q Was it just like that?

14 A I believe it was.

15 Q When did you first start wearing that at the plant?
16 In 1966 I am talking about.

17 A Well I don't recall just the exact date but I believe
18 it was the twenty fifth.

19 Q Of what month?

20 A Of April.

21 MR. MERCER: Mark this General Counsel 26.

22 (The article was marked General
Counsel's Exhibit No. 26 for
identification.)

23 BY MR. MERCER:

24 Q I hand you what has been marked General Counsel 26 and
25

1 ask you what that is?

2 A That is a key chain for the IBEW Union.

3 Q Did you ever pass any of those out?

4 A Yes, I did.

5 Q Where did you pass those out?

6 A In the plant at Hillside.

7 Q When did you start passing those out?

8 A Well it was in March. I don't know the exact day
9 which it was but it was around the first of the Union meeting.

10 TRIAL EXAMINER: March of what year?

11 THE WITNESS: Sixty six.

12 BY MR. MERCER:

13 Q Where at the plant did you pass those out?

14 A Along the production lines.

15 Q Mrs. Felty, you mentioned earlier I believe you
16 passed out some literature in the plant in 1966?

17 A Yes, I did.

18 Q When did you start passing that out?

19 A I started passing them out the eighteenth of March.

20 Q Where in the plant did you specifically pass out the
21 literature?

22 A On my line. I would sit on my line.

23 TRIAL EXAMINER: What about 25 and 26?

24 MR. MERCER: I offer General Counsel's 25 and 26.

25 TRIAL EXAMINER: Any objection?

1 MR. HILL: Well I don't quite see how they are relevant
2 at this point. Aside from that there is no objection.

3 TRIAL EXAMINER: They may be received.

4 (The items heretofore marked
5 General Counsel's Exhibits
6 Nos. 25 and 26 for
7 identification were received.)

8 BY MR. MERCER:

9 Q Mrs. Felty, did you ever request in 1966 from any
10 company supervisor of official that you be put on leave?

11 A No, I did not.

12 Q Mrs. Felty, during your time at Sarkes Tarzian
13 starting in 1962, have you ever been warned about the
14 quality of your work?

15 A Yes I was one time.

16 Q When was that?

17 A That was in approximately August 1962.

18 Q What were you working on at that time?

19 A Well I was working on a crimp job, on the bases.

20 Q Except for the warning you have just told us about,
21 were there any additional warnings besides that?

22 A No, there was not.

23 Q Have you ever been warned by any supervisor or
24 management about your conduct?

25 A No, I was not.

Q Have you ever been recalled by the company since the

1 April incident?

2 A No, I have not.

3 Q Do you know Mr. Woods?

4 A Yes, I met him.

5 Q Known as Woody Woods to some people out there?

6 A Yes.

7 Q Did you have a conversation with Mr. Woods in 1966?

8 A Yes, I did.

9 Q When was that?

10 A Well, that was approximately June the 20.

11 Q Where were you when you talked to Mr. Woods?

12 A Well, I was in a little office in the personnel, I
13 mean in the personnel.

14 Q Did you see Mr. Woods first when you went out there?

15 A I saw Della Haynes, the nurse.

16 Q Did she send you to Woods?

17 A No. She said, "Wait just a few minutes and I'll talk
18 to you."

19 Q What happened then?

20 A Well she left the personnel office and she was gone
21 for approximately five or ten minutes and she came back and
22 she said, "Mr. Woods will talk to you."

23 Q What happened then?

24 A So I went in and Mr. Woods said, "Have you got a
25 doctor's statement?" I said, "No, I haven't got no doctor's

1 statement." I said, "The doctor did not put me on leave."
2 And he said, "Who put you on leave?" I said, "Polley did."
3 And he said, "Well," he said, "Your doctor cannot put you
4 on medical leave. The company does that." He said, "All
5 the doctor does is okay it." And I said, "Well what are
6 you going to do about it?" And he said, "Well," he said,
7 "Under these circumstances I cannot call you back to work and
8 I can't let you go." And I said, "Is that all?" And he
9 said, "Yes." He said, "You can go now." And I got up and
10 left the company again.

11 Q Did he explain to you what he meant by the term,
12 "under these circumstances"?

13 A No, he did not.

14 Q Did you leave the plant then?

15 A I left the plant and went home.

16 Q Do you know a man by the name of Wampler?

17 A Yes, I do.

18 Q Who is Mr. Wampler?

19 A He was the foreman over line 8.

20 Q Do you know a woman out there by the name of
21 Dolores Dugan?

22 A Yes, I do.

23 Q Did you ever have any conversation with Dolores Dugan?

24 A Yes, I did.

25 Q Did you ever have a conversation with her about Union

1 cards?

2 A Yes, I did.

3 Q When was that?

4 A That was in April. No, that was in March, about the
5 last of March.

6 She was all the time bumming cigarettes off the line.
7 So she came to me and asked me for a cigarette.

8 MR. HILL: May we ascertain where this took place
9 please?

10 BY MR. MERCER:

11 Q Where were you at the time?

12 A I was on the line, line 8, my work place.

13 So I gave her a cigarette and while I was looking
14 around in my purse to get her a match which would have been
15 an IBEW Union match, she got fumbling around in my purse
16 with the cards that I had signed. And I said, "Get your
17 hand out of my purse and quit being so nosey." And she said,
18 "I'm not nosey." She said, "That's just what I thought it
19 was." So she gets up and leaves. She didn't wait for a
20 match. She went up and said something to Mr. Wampler who
21 was the foreman and she left him and went directly to the
22 dispensary to get a headache tablet.

23 Q Who was in the dispensary, who is in charge of that?

24 A I suppose Della Haynes is.

25 MR. HILL: Objection.

1 BY MR. MERCER:

2 Q When you go to the dispensary who is in charge?

3 A I would see Della Haynes.

4 Q Could you hear the conversation between Wampler and
5 Dugan?

6 A No, I could not.

7 Q What kind of cards were these you had in the purse?

8 A They were IBEW Union cards.

9 Q Were they like these cards you have identified?

10 A Yes, they were.

11 MR. MERCER: I will pass the witness.

12 TRIAL EXAMINER: Off the record.

13 (Discussion off the record.)

14 TRIAL EXAMINER: On the record.

15 We will take a recess until 1:30.

16 (Whereupon, at 12:00 o'clock, noon, the hearing was
17 recessed until 1:30 o'clock p.m.)

18

19

20

21

22

23

24

25

AFTERNOON SESSION

TRIAL EXAMINER LONDON: The proceeding will be in order.

CROSS-EXAMINATION

BY MR. HILL:

Q Mrs. Felty, you stated in your testimony that you took a leave in November of sixty five, is that correct?

A Yes, sir.

Q Where had you been working prior to that time?

A On line 4.

Q What were you doing there?

A I was soldering.

Q Did you do any soldering?

A Yes I was.

Q Was that the job you had when you took your leave?

A Yes, it was.

Q You testified also, Mrs. Felty, that line 8 on which you had been working I believe was broken up or dissolved in April? Do you remember the date of that?

A Would you repeat that please?

Q Do you remember what date line 8 was broken up or dissolved?

A That was April 19.

Q What was the last day you worked on that line?

A Well it was on a Friday. That would be about the seventeenth I believe.

1 Q Of this year?

2 A This year.

3 Q You did not work on it the eighteenth of April?

4 A That was on Sunday.

5 Q Are you sure of that?

6 TRIAL EXAMINER: Did you work the Friday before the
7 nineteenth?

8 THE WITNESS: That would be the sixteenth.

9 BY MR. HILL:

10 Q Are you sure of that?

11 A Well Saturday was the seventeenth.

12 Q Now what day was it then you first worked on line 4?

13 Is that the line to which you were assigned?

14 A Yes, it was.

15 Q What day was that?

16 A April 19 of sixty six.

17 Q Do you remember what day that was?

18 A April 19 of sixty six.

19 Q Do you remember what day of the week?

20 A Monday.

21 Q Are you sure of that?

22 A Yes, I am.

23 Q On this date you testified I believe you had a talk
24 with Jennings Polley?

25 A Yes, sir.

1 Q Do you remember talking with anyone else that morning
2 before you saw Mr. Polley?

3 A Vance Young.

4 Q Anyone else?

5 A Well, other than the girl that transferred me which
6 is Ruby Robertson, assistant foreman on line 8.

7 Q I believe you testified that when you reported to line
8 4 Mr. Young said, "I don't need you. I'll take you to
9 Polley."?

10 A That's right.

11 Q Did you make any statements to anyone about having
12 a machine operator's pattern that morning?

13 A No, I didn't.

14 Q Did you talk to Mr. Young about that?

15 A No, I didn't.

16 Q Did you talk to La Verne Banks about that?

17 A No, I didn't.

18 Q Did you tell Mr. Polley that you had a machine operator's
19 pattern?

20 A No, I didn't.

21 Q Did you tell Ann East that you had a machine operator's
22 pattern?

23 A No, I didn't.

24 Q Now you testified that the following day you had a
25 conversation with Mr. Polley in his office?

1 A Yes.

2 Q And you testified that following that conversation Mr.
3 Young brought you a fan?

4 A Yes, sir.

5 Q Did Mr. Polley say anything to you about that fan
6 in your conversation with him that morning?

7 A He said that he would see what he could do for me
8 and it wouldn't take long.

9 Q Did he make a call to Mr. Young while you were there?

10 A No, he didn't.

11 Q Did he tell you he would arrange for you to get a fan?

12 A No, he didn't.

13 Q Did Mr. Young bring the fan to you?

14 A Yes, he did.

15 Q Do you recall this was the first you knew about it?

16 A Yes, I do.

17 Q And Mr. Young pointed the fan so it blew the smoke
18 right in your face?

19 A Yes, he did.

20 Q Did you adjust the fan so it wouldn't blow smoke in
21 your face?

22 A I tried to.

23 Q What happened?

24 A I couldn't do no good because it was too close.

25 TRIAL EXAMINER: Because it was?

1 THE WITNESS: It was too close to the back of the
2 line.

3 BY MR. HILL:

4 Q What size fan was this?

5 A Well I would say about a six inch or eight inch.
6 I don't know which.

7 Q It was a little portable fan?

8 A Yes, it was.

9 Q Such as you would use in your home?

10 A Yes.

11 Q Do other girls have fans on the line?

12 A Some of them do, yes.

13 Q Is it the solder girls that have the fans?

14 A Well some of the solder girls have fans and some of
15 the crimp girls have fans.

16 Q Do they have them there so it blows smoke in their face?

17 A I don't know. I couldn't say yes or no on that.

18 Q And you could not adjust this small fan so it would
19 not blow smoke in your face?

20 A No, I couldn't in no more room than I had.

21 Q Did you try?

22 A Yes, I did.

23 Q How do the other girls there keep the smoke from
24 blowing in their face?

25 A I don't know.

1 Q Was the adjustment broken on the fan?

2 A I'd say it wasn't.

3 Q Why didn't you turn it off if it was blowing smoke
4 in your face?

5 A I didn't turn it on. Vance Young turned it on.

6 Q You just left it there blowing smoke in your face all
7 day and didn't adjust or turn it off?

8 A I turned the fan up but I didn't have room enough to
9 take it and turn it out of my face.

10 Q Did the other girls have room enough for that?

11 A Well I don't know how they had their fans set. I
12 couldn't say.

13 Q There was nothing to prevent you from adjusting the
14 fan, was there?

15 A Other than room.

16 TRIAL EXAMINER: Other than what?

17 THE WITNESS: The room that I had for the fan.

18 BY MR. HILL:

19 Q You did not turn it off?

20 A No I didn't because I couldn't sit there that long.

21 Q How long did you work that day?

22 A I worked an hour and a half.

23 Q I believe you testified then that Mr. Young then came
24 up and told you he had another girl to work there and that
25 you would have to go home, is that right?

1 A Yes.

2 Q Had you told anybody prior to that time that you
3 didn't feel very well?

4 A Yes, I had.

5 Q Who was that?

6 A La Verne Banks.

7 Q What did you tell her?

8 A I told her that solder was getting the best of me and
9 I couldn't talk.

10 Q Did you mention anything about going home to her?

11 A Yes. I told her I was going home at break which
12 would have been 9:00 o'clock.

13 Q You told her you were going home at break?

14 A Yes, I did.

15 Q And then Mr. Young came up following that?

16 A He came up about 20 minutes after eight.

17 Q Did Miss Banks say anything, did she say she was
18 going to say anything to Mr. Young?

19 A Yes, she told me she would tell Mr. Young.

20 Q That you were going home at break?

21 A Yes.

22 Q It was after that then that Mr. Young brought up
23 another girl?

24 A Yes.

25 Q This was about what time, about 8:20?

1 A About 8:20.

2 Q And the break is at 9:00?

3 A Nine o'clock.

4 Q You testified you had an occasion on June twentieth
5 I believe to talk with Mr. Woods?

6 A Yes, sir.

7 Q I don't believe you said where that took place,
8 where that talk took place. Could you tell me?

9 A Would you repeat that please?

10 Q Where was it that you talked with Mr. Woods, where
11 were you at that time?

12 A In the personnel office, in one little office all by
13 itself.

14 Q Was anyone else there at the time?

15 A Della Haynes.

16 Q You testified also I believe that the second day
17 of your assignment on line 4, that Vance Young put you in
18 between two soldering irons?

19 A That's right.

20 Q Is this the same job you had, the same position you
21 had the day before?

22 A Yes, sir.

23 MR. HILL: I think that is all.

24 REDIRECT EXAMINATION

25 BY MR. MERCER:

Q Mrs. Felty, you were asked some questions about a

1 fan, will you explain to us in what manner, in what way you
2 tried to adjust this fan?

3 A Well, you can raise it up where the fan will go up.
4 That doesn't have too much effect on you you don't get no
5 good out of it and then you can set it straight up where it
6 blows the air straight up.

7 Well I did not have the room where I was working to
8 turn that fan straight up.

9 Q When you said several times you did not have the room,
10 will you explain what you mean by you "did not have the room"?

11 A Well, it's just a very small place to set a fan and
12 most generally you have to have a little box or something to
13 set the fan on and then you've got the room. Well, I didn't
14 have that.

15 Q What was the fan sitting on?

16 A Right on the back of the line conveyor.

17 Q How far was this from where you work?

18 A It wasn't too far. It was just a very little piece
19 which I would suppose you would call it the back of the line.

20 Q Look at me. Was it as far away as I am?

21 A No.

22 Q Was it as far away as I am now?

23 A Do you mean the fan?

24 Q The fan to where you were.

25 TRIAL EXAMINER: To where you were working.

1 THE WITNESS: No it wasn't. It was closer.

2 BY MR. MERCER:

3 Q Was it as close as I am now?

4 A It was closer.

5 Q Was it as close as I am now?

6 A Just a little closer.

7 Q Was it just as close as I am now?

8 A Just about as far away from my face.

9 MR. MERCER: Will you stipulate that is about two feet?

10 MR. HILL: Sure.

11 BY MR. MERCER:

12 Q Now Mr. Hill also asked you some questions about other
13 fans on that line that morning.

14 Were there any other fans in the area that you noticed
15 besides the one that Mr. Young placed?

16 A Yes, there were.

17 Q How close was the nearest one?

18 A Well each one of the girls, the girls that I was
19 sitting between both had fans and then there were fans up
20 and down the line there.

21 Q What did those girls, the ones near by you, what did
22 they have their fan sitting on?

23 A Well it looked like a little cardboard box that had
24 built it up where you would have room to turn that fan either
25 way you wanted it.

1 Q Is this the type of fan that oscillates, moves from
2 side to side?

3 A No, it isn't.

4 Q It is stationary as to side movements?

5 A Yes it is.

6 Q How long did you work, giving us your best estimate,
7 how long did you continue to work after Mr. Young brought
8 the fan?

9 A Well, he brought the fan out there about 10 minutes
10 to 8 and I left the line at 20 after 8.

11 MR. MERCER: I pass the witness.

12 MR. DONNENFELD: No questions.

13 RECROSS-EXAMINATION

14 BY MR. HILL:

15 Q Mrs. Felty, did you ask anyone for a box to set the
16 fan on?

17 A No, I didn't.

18 Q You didn't ask for a fan, you didn't turn it off,
19 you just sat there and let it blow in your face, is that
20 right?

21 A Well at the time there was no one around for me to
22 ask for a box.

23 Q Wasn't your group leader around?

24 A No, she wasn't. She was further down the line.

25 Q Do you mean all day while you sat there or rather

1 all the time that you sat there she was down the line?

2 A Yes.

3 Q How about your assistant foreman?

4 A Well, the best I remember the assistant foreman was
5 sitting down the line helping another girl and she got up
6 and walked to my station where I was working.

7 Q Was that within any distance that you could call to
8 them?

9 A Well I could but if they were on the line they wouldn't
10 have got up.

11 Q The group leader was on the line too?

12 A Yes, she was.

13 Q So you didn't say anything to anybody about it?

14 A Until the assistant foreman come up there.

15 Q Then what did you say?

16 A I told her I was going to have to go home at break.

17 Q Did you say anything to her about wanting a cardboard
18 box to set the fan on?

19 A I told her the fan was blowing in my face and it was
20 causing solder smoke and fumes to smother me.

21 Q Did you say anything to her about asking for a
22 cardboard box like the other girls had?

23 A No, I didn't.

24 Q Why not? You said the other girls had cardboard boxes.
25 Here was an opportunity to ask her.

1 A I don't know whether they got them from her or if
2 they brought them from home or where they got them.

3 Q At any rate you did not ask anybody?

4 A No, I didn't.

5 Q Did you ask whether you could turn it off?

6 A She didn't ask me if I wanted to turn it off or not.

7 Q That is not the question.

8 Did you ask her whether you could turn it off?

9 A No.

10 Q Did you ask anybody for permission to turn it off?

11 A No.

12 Q Couldn't you have turned it off without telling them?

13 A Yes.

14 MR. HILL: That is all.

15 MR. MERCER: How was it plugged in, the fan?

16 TRIAL EXAMINER: I did not hear you.

17 MR. MERCER: How was it plugged in, the fan?

18 THE WITNESS: It was just a socket in the back of the
19 line, just as you would plug it in a home, you just plug it
20 in.

21 MR. MERCER: Who plugged it in?

22 THE WITNESS: Vance Young.

23 MR. MERCER: I have nothing else.

24 MR. HILL: I think that is all.

25 TRIAL EXAMINER: I want to know a little more about this

1 fan.

2 Did you have a fan the day before?

3 THE WITNESS: No they didn't.

4 TRIAL EXAMINER: How did it happen the fan came in
5 that day, do you know?

6 THE WITNESS: Because I had went into Polley's office
7 and talked to him and I suppose he sent the fan out there.
8 I don't know.

9 TRIAL EXAMINER: What did you say to him? You
10 said you went to talk to who?

11 THE WITNESS: Jennings Polley.

12 TRIAL EXAMINER: What did you tell him about the fan?

13 THE WITNESS: I didn't tell him anything about the fan.
14 I asked him to transfer me out of the solder.

15 TRIAL EXAMINER: And what did he say?

16 THE WITNESS: He said, I had a crimp and solder pattern
17 and that's all he had for me.

18 TRIAL EXAMINER: How long had you worked at that post
19 before this day?

20 THE WITNESS: This line do you mean?

21 TRIAL EXAMINER: Yes.

22 THE WITNESS: Just one day.

23 TRIAL EXAMINER: Had the fans been there the day before?

24 THE WITNESS: No it hadn't.

25 TRIAL EXAMINER: Had there been any fans along there

1 for the other girls?

2 THE WITNESS: The other girls had fans.

3 TRIAL EXAMINER: You said there wasn't enough room
4 for you to turn it up. I wish you would explain that for
5 me as to how that situation is there.

6 THE WITNESS: Well, if you set the fan flat down on
7 the line, well, you don't have room enough from the back of
8 the line to turn that fan like you should have it turned,
9 it would hit the back of the line.

10 TRIAL EXAMINER: That is all.

11 MR. MERCER: Nothing.

12 TRIAL EXAMINER: You may step down.

13 (Witness excused.)

14 REVA ROBERTSON

15 a witness called by and on behalf of the General Counsel,
16 being first duly sworn, was examined and testified as follows.

17 TRIAL EXAMINER: Give us your name and address and
18 speak up loud please.

19 THE WITNESS: Reva Robertson, Route 8, Bloomington.

20 DIRECT EXAMINATION

21 BY MR. MERCER:

22 Q Is that R-o-b-e-r-t-s-o-n?

23 A Yes.

24 Q Mrs. Robertson, were you employed at Sarkes Tarzian?

25 A Yes, sir.

1 Q How many times have you worked at Sarkes Tarzian?

2 A Three times.

3 Q What was the last time that you worked there?

4 A January thirty first, 1966.

5 Q What was your job when you started in January 1966?

6 A I was in quality control, inspector.

7 Q What was your rate of pay?

8 A At that time I don't know what it was when I began
9 just when I started out but at the time that I left I was
10 making a dollar fifty six.

11 Q Per hour?

12 A (Nods heads to signify affirmative.)

13 Q Had you received an increase?

14 A Yes.

15 Q Now directing your attention to February fifty six,
16 did you have any medical difficulty at work?

17 A In fifty six?

18 Q I mean in sixty six.

19 A February twelfth.

20 Q What happened?

21 A I went back in the stick room in quality control.

22 I worked for two hours and due to the fiberglass and
23 the dust I had to be taken out.

24 Q Who did you go to after you worked the two hours, who
25 did you talk to?

1 A William Pa,

2 MR. HILL: Had to ..

3 THE WITNESS: I had to be ..

4 BY MR. MERCER:

.. of there.

5 Q Who did you talk to about being taken out?

6 A William Payne.

7 Q Who is William Payne?

8 A He's foreman on the night shift.

9 Q Now you say you brought a doctor's slip in to the
10 company, who did you give that statement to?

11 A William Payne, the foreman.

12 Q I hand you what is in evidence as General Counsel
13 Number 14. Is that the statement you brought in or a copy
14 of it?

15 A Yes, it is.

16 Q Now where was this area of the plant you worked in
17 that one night two hours?

18 A It was in the back of the plant and it's off from the
19 rest of the sticks where they wind the sticks.

20 Q What do they call this area?

21 A I don't know, the stick room that's all I know.

22 Q How far is it from the area you had been working in
23 before?

24 A Well, it's quite a ways and it's enclosed the stick
25 room is so the fibergas dust doesn't get outside.

1 Q The room you had difficulty in it is an enclosed room?

2 A Yes.

3 Q How about the other area you had been working before
4 that is it enclosed?

5 A No. It's just inside the plant.

6 Q An open area inside the plant?

7 A Yes.

8 Q After this one or two hours --

9 TRIAL EXAMINER (interrupting): Wait a minute while
10 you are on that.

11 You say this room, this one room that is enclosed,
12 how big is that room, approximately?

13 THE WITNESS: It's two, three different rooms in that
14 you go around those machines and check so many sticks from
15 each machine, maybe half as large as this room, maybe about
16 the size of this room, I mean, this part here.

17 TRIAL EXAMINER: How many feet, 10, 15, 20 feet long?

18 THE WITNESS: Approximately that.

19 TRIAL EXAMINER: I want your estimate.

20 THE WITNESS: I'm not for sure. Each room has several
21 machines in it. I don't know.

22 TRIAL EXAMINER: The reason I raised the question.
23 She said the room was enclosed.

24 THE WITNESS: The department back there is enclosed out
25 from the rest of the plant. It's on account of the dust and

1 stuff those machines cause.

2 MR. HILL: We move to strike her conclusion as to why
3 this room is enclosed.

4 TRIAL EXAMINER: Yes. The latter part you can strike
5 it.

6 BY MR. MERCER:

7 Q Talking about this enclosed room, what do the machines
8 do in that room?

9 A They put contacts in the sticks.

10 Q Do they do that work out in the open area where you
11 had worked before this?

12 A No.

13 Q Did I understand you to say did you have any
14 conversation with Mr. Parish about this difficulty you had
15 in this room?

16 A Yes, on Monday evening after I went in to work.

17 Q Where did you talk to Mr. Parish?

18 A On line 2, where I checked, my main job at the plant.

19 Q What did you tell Mr. Parish and what did Mr. Parish
20 tell you?

21 MR. HILL: Excuse me. Which Monday are you talking
22 about?

23 MR. MERCER: The Monday after her medical difficulty
24 in February.

25 Go ahead.

1 THE WITNESS: I told him I had to be taken out of the
2 stick room last night. He said Mr. Payne told him that he
3 took me out.

4 BY MR. MERCER:

5 Q What was Mr. Parish's relation to you at this time?

6 A He was my foreman.

7 Q What department did he work in?

8 A In quality control.

9 Q He worked days or nights?

10 A Days.

11 Q Did you work days or nights?

12 A I worked nights.

13 Q But you reported it to Mr. Parish?

14 A That's right.

15 Q Was Mr. Payne a foreman in quality?

16 A No.

17 Q Production foreman?

18 A Yes.

19 Q Do you know a woman by the name of Grace Porter?

20 A Yes.

21 Q Did you receive any orders in 1966 about going to
22 the rest room?

23 A Yes.

24 Q Where did you receive this order?

25 A They sent it down the line by the girls totell

1 everyone on the line that we weren't to go to the rest room,
2 no two friends or any close relation that worked together were
3 to go to the rest room together.

4 Q In other words, you were not supposed to go to the
5 rest room at the same time with your working partner?

6 A Yes.

7 Q Who did you work with at that time?

8 A Ann Branam.

9 Q What did she do?

10 A She was a quality inspector, the same as I.

11 Q How close did you work to Ann?

12 A From here to that table.

13 Q Just about a foot or two away?

14 A Yes.

15 Q Now when was it they told you this about not going to
16 the rest room with other employees?

17 A April fourteenth.

18 Q Before this had you gone to the rest room with anyone
19 else?

20 A Yes.

21 Q Who did you go with?

22 A Anna Branam.

23 Q Did you ever see Anna Branam wear a Union button?

24 A Yes.

25 Q When did she start wearing that button?

1 A April 17 or 18, somewhere along there.

2 Q I assume although you did not go with Anna Branam
3 you continued, when necessary, to make trips to the rest room?

4 A Yes.

5 Q Did you notice anything after this when you went to
6 the rest room that you had not noticed before?

7 A I noticed every time I went to the rest room there would
8 be a certain person, Emily White or Sharon George or Grace
9 Porter, assistant foreman, on nights that would follow.

10 Q You said they would follow. Did they go into the
11 rest room when you did?

12 A They would come in after I got in there and they would
13 come out behind me.

14 Q Do you mean stay in there while you were there?

15 A Yes.

16 Q You mentioned Grace Porter, assistant foreman.
17 Who is Emily White?

18 A She's group leader.

19 Q Who is the other person?

20 A Sharon George. She's group leader too.

21 Q Did you notice anything about when Anna would go to
22 the rest room?

23 A Yes. There would be different ones follow her.

24 Q Which ones would follow her?

25 A Grace Porter, assistant foreman and Maxine Chamness.

Q Who is Miss Chamness?

1 A She's maintenance on machines.

2 Q Before the incident started about one of the individuals
3 going with you to the rest room, had you ever talked Union
4 in the rest room?

5 A Yes.

6 Q Do you know Tom Beech?

7 A Yes.

8 Q Who is Tom Beech?

9 A He was on the machine.

10 Q Did you see him around in the department?

11 A Yes.

12 Q Did you ever see him wear a Union button?

13 A Yes.

14 Q Were you told anything about a new rule about maintenance
15 men?

16 A Yes.

17 Q When did this occur?

18 TRIAL EXAMINER: New rule about what?

19 MR. MERCER: About maintenance.

20 THE WITNESS: It occurred about April fifteenth or
21 sixteenth.

22 MR. MERCER: What were you informed about this?

23 MR. HILL: Who told her?

24 BY MR. MERCER:

25 Q Who did you hear this from?

1 A Probably Tom. I think it was Tom.

2 Q Did Tom Beech tell you?

3 A Yes.

4 Q What did he tell you?

5 A That they were to stay on their feet at all time and
6 to keep busy, they weren't to sit down and wait for a break,
7 they were to stay on their feet.

8 Q You say they weren't to sit down and wait. Had you
9 before this had you ever seen them sit around waiting for a
10 breakdown?

11 A Yes.

12 Q What would they do when they sit down?

13 A Well, sit and maybe work on another machine that wasn't
14 in operation or something.

15 Q Did you ever see them sit and talk to any of the
16 girl operators?

17 A Yes.

18 Q Is Mr. Beech still there?

19 A No.

20 Q Do you remember, you don't have to remember the date
21 but do you remember if Mr. Beech quit?

22 A Yes.

23 Q When Mr. Beech quit did the maintenance men still have
24 to stay on their feet at all time?

25 A No.

1 Q Do you ever see any of them sitting around?

2 A Yes.

3 Q Were you a member of the IBEW organizing committee?

4 A Yes.

5 Q Can you tell us when you joined the organizing committee?

6 A April 13.

7 Q Did you attend some Union meetings?

8 A No I didn't, I attended, my first Union meeting was

9 April 13. I joined the organizing committee May fourth.

10 Q Did you ever wear a button to work?

11 A Yes.

12 Q Did you wear an organizing button?

13 A Yes.

14 Q I show you General Counsel's Number 25 and ask you if
15 this is the type button you wore?

16 A Yes.

17 Q In addition to the button you wore did you have any
18 other buttons with you?

19 A I had an IBEW button that I wore here on my purse.

20 Q I hand you what has been marked General Counsel 27
21 for identification.

22 Is this the type of button you wore on your purse?

23 A Yes.

24 (The button was marked General
25 Counsel's Exhibit No. 27 for
identification.)

1 Q Now where would your purse be when you were working?

2 A I set it on a table in front of myself.

3 Q When did you first start putting this button on your
4 purse?

5 A On May fifth.

6 Q This is the same time you mentioned earlier you started
7 wearing the organizing button?

8 A Yes.

9 Q How long did you continue to wear this button?

10 A Until after about May 13 or 14.

11 Q Until after the election?

12 A (Nods head to signify affirmative.)

13 Q Did you ever see Foreman Payne when you had that
14 button on?

15 A Yes.

16 Q Where did Mr. Payne get his coffee around there when
17 he wanted to drink your coffee?

18 A On the table beside where I worked, the same table
19 where I worked.

20 Q Did you sign a card for IBEW?

21 A Yes.

22 Q I hand you what I have marked for identification
23 General Counsel 28. Is that your signature, your printing?

24 A Yes, it is.

25

(The document above referred to
was marked General Counsel's
Exhibit No. 28 for
identification.)

1 MR. MERCER: I offer General Counsel 28.

2 TRIAL EXAMINER: Any objection?

3 MR. HILL: No objection.

4 TRIAL EXAMINER: What about 27?

5 MR. MERCER: I offer 27 also.

6 TRIAL EXAMINER: Any objection to 27, the button?

7 MR. HILL: No objection.

8 TRIAL EXAMINER: They may be received.

9 (The button and the document
10 heretofore marked General
11 Counsel's Exhibits Nos. 27 and
28 respectively, were received.)

12 BY MR. MERCER:

13 Q Did you ever ask any of the employees to sign Union
14 cards?

15 A Yes.

16 Q Did you pass out any to the employees?

17 A Yes.

18 Q Did you ever collect any from the employees?

19 A No.

20 Q When you passed cards out and talked to people about
21 it where were you?

22 A I was on line 2.

23 Q What time of the day was this?

24 A Eight o'clock.

25 Q What do you do at 8:00 o'clock?

1 A That's our supper hour.

2 Q Did you ever pass out any Union literature of any kind?

3 A Yes.

4 Q Where were you when you passed this out?

5 A On line 2.

6 Q What time of the day was that?

7 A On supper hour.

8 Q When is the first time that you passed out any cards?

9 A Do you mean Union cards?

10 Q Yes, that's right.

11 A About May fifth.

12 Q When is the first time you passed out any leaflets?

13 A May tenth.

14 Q Now you identified Mr. Payne as the foreman on nights.

15 You also identified Mr. Parish as the foreman in

16 quality control.

17 Was there some change made about who you reported to?

18 A Yes.

19 Q When was that change made?

20 A April twenty first.

21 Q As of that time who did you report to?

22 A To Payne.

23 Q And you no longer directly reported to Mr. Parish?

24 A Yes, we reported to him, too.

25 Q Both of them?

1 A Yes.

2 Q Do you recall having a conversation with Mr. Payne
3 about yourself and Anna Branam being watched?

4 A Yes.

5 Q Can you tell us when that was?

6 A That was about May 12.

7 Q Where were you when you had this conversation?

8 A On line 7.

9 Q Who was there during the conversation besides you and
10 Mr. Payne, do you know?

11 A That was all at that time.

12 Q Will you tell us what you said to Mr. Payne and what
13 he said to you?

14 A I asked him why we were being watched. He said he
15 could tell us why because the girls were complaining they
16 wanted a quality job too.

17 TRIAL EXAMINER: They wanted what?

18 THE WITNESS: They wanted a job in quality too.

19 BY MR. MERCER:

20 Q Was anything else said then?

21 A I told him that if they wanted a job I would trade
22 with them for a while.

23 He said they probably wouldn't accept it.

24 Q Was anything else said on this occasion that you recall?

25 A He said everyone was acting funny lately, he didn't

1 know if it was the reason the people were wearing their
2 Union buttons or not.

3 Q What did you say to this at the time?

4 A I said, "Well it's a free country."

5 Q Do you recall anything being said about Grace Porter?

6 A He said Grace Porter watched Anna Branam and I.

7 Q This is the same Anna Branam that worked next to you?

8 A Yes.

9 Q She did inspection work as you did?

10 A Yes.

11 Q Do you recall Ann saying anything about --

12 MR. HILL: Objection, your Honor. He is leading this
13 witness very badly.

14 BY MR. MERCER:

15 Q Do you recall anything else that was said during this
16 conversation?

17 A I asked him if he had any objection to my work, that
18 I wanted him to tell me and he said he would.

19 Q Do you recall anything else being said during this
20 conversation?

21 A No.

22 Q Do you recall anything being said by either one of
23 your about --

24 MR. HILL: (interrupting) I am going to object again.
25 He is leading the witness when she said she doesn't recall

1 anything else.

2 TRIAL EXAMINER: Yes. You may proceed.

3 BY MR. MERCER:

4 Q Do you recall anything being said by either one of you
5 about Union buttons and how you stood on Union?

6 A Yes. Payne said that.

7 Q What did he say about that?

8 A He said if they were acting the way they were over
9 the Union they shouldn't because he knew how we stood before
10 we started wearing our Union buttons.

11 Q Who is "we"?

12 A Ann Branam and I.

13 Q Did you work on May nineteenth?

14 A No.

15 Q You didn't?

16 A I went in to work.

17 Q What happened when you went in to work that day?

18 A I was called to the office.

19 Q Who all was there?

20 A William Payne, Will Parish, Anna Branam, Rita
21 Clemmons and myself.

22 Q Who is Rita Clemmons?

23 A She was an inspector.

24 Q What department in the plant did she work in?

25 A She worked in the same department I did. She checke

1 channel on stick.

2 Q Tell us when you got to this meeting who said what,
3 starting from the beginning to the end, identifying who
4 said these things.

5 A William Payne said if you're wondering why we called
6 you in here, he said, we've been cut back and since I was
7 next to the youngest quality girl and I wanted to stay in
8 quality I'd have to bump the girl back in the stick where
9 the dust was.

10 And I told him -- or either I'd have to take a machine
11 -- I said, "I can't go back in the machine room because I
12 have a doctor's statement," and he was aware of that I had
13 a doctor's statement. He said he was aware of that. He
14 said I would have to take then a machine. And I said,
15 "Several years ago I had to be taken off the solder for the
16 reason I couldn't take the solder fumes.

17 I asked him if I had to make my decision that night
18 and he said, "Yes." But then he let me go home and make
19 up my mind whether I would accept a machine or a job in the
20 back.

21 Q Did he tell you you could let him know the next day?

22 A Yes.

23 Q What else was said by the people involved, if anything?

24 A Anna Branam said could she take a layoff and let me
25 keep my job and they said, "No. No layoffs." And Rita

1 Clemmons offered to take the job in the back and let me keep
2 my job since she would be the one to bump me.

3 Q She was senior to you?

4 A Yes.

5 Q What was said about her offer?

6 A They said they would have to talk to Jennings Polley.

7 Q Now you say to take the job in the back, are you referring
8 now to this room where you worked two hours and had the
9 difficulty?

10 A Yes.

11 Q This is the job that you were offered the same place
12 where you had the difficulty?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q You mentioned something about solder fumes.

17 Did you have some condition that caused you difficulty
18 in the solder room?

19 A Yes, I had asthma bronchitis.

20 Q Now, the next day did you have any contact with
21 Mr. Parish?

22 A Yes.

23 Q Did you contact him or did he contact you?

24 A I called him as I told him I would.

25 Q Tell us.

1 A He hadn't talked to Mr. Polley or Mr. Payne yet so
2 he said he would call me at my home. He called me at 4:30.

3 Q He called you at 4:30?

4 A Yes.

5 Q Tell us what he said when he called you then.

6 A He said he talked to Mr. Polley and Mr. Payne and he said
7 there'd be no change and I said, "Well," and he said, "Does
8 that mean you're terminating from the plant?" And I said, "I
9 can't take that dust or those solder fumes." He said, "Thank
10 you," and hung up.

11 Q Mrs. Robertson, were you ever warned about the quality
12 of your work?

13 A No.

14 Q Were you ever criticized about your work?

15 A No.

16 Q You mentioned something about an earlier doctor's
17 statement. Was this when you worked in some years past?

18 A Yes. Several years back, probably 10, 12 years.

19 Q You also mentioned something about going to the
20 foreman, which one were you talking about, about that
21 statement?

22 A I didn't say that. I said he was aware of the fact I
23 couldn't take the dust.

24 Q Who was aware of that?

25 A Bill Payne.

1 Q Have you ever been recalled?

2 A No.

3 Q Did you ever have a conversation with Mr. Jennings
4 Polley about being watched?

5 A Yes.

6 Q When was that?

7 A On May eighteenth.

8 Q Where were you when you talked to Mr. Polley?

9 A In Will Parish's office.

10 Q Was Mr. Parish there too?

11 A Yes.

12 Q Was anyone else there?

13 A Anna Branam.

14 Q Will you tell us what you said to Mr. Polley on this
15 occasion and what he said to you?

16 A We went in for --

17 Q (interrupting): Who is this?

18 A Anna Branam and myself. They had changed procedures
19 in quality. William Payne had done this and he wasn't the
20 one that was supposed to change any procedures.

21 Q Just tell us what happened.

22 A We went in. So we were discussing that and Mr. Polley
23 told them if any changes would come from Will Parish -- and
24 so I asked Mr. Polley why we were being watched out there
25 and he said, "Do you know why you are being watched?" I said,

1 "No." He said, "If you're sitting out there not doing your
2 work but if you're doing your job then okay don't worry
3 about it."

4 Q Did he give you any explanation as to why you were
5 being watched?

6 A No.

7 Q Had anyone told you you weren't doing your work
8 properly?

9 A No.

10 Q Between the time this going to the rest room following you
11 that
11 /started at the time you left, did this continue during this
12 period?

13 A Yes.

14 Q Had anyone in authority like Mr. Payne, Mr. Parish,
15 Mr. Polley or the assistant foreman Grace Porter, did any of
16 these people tell you why they were doing this?

17 A Payne told me he had Gracie watching us because we
18 had too much free time.

19 MR. HILL: Identify when and where.

20 BY MR. MERCER:

21 Q When was that again?

22 A It was about April. No, it was in May, thirteenth.

23 Q Is that the conversation you previously testified
24 about in which you offered to trade with some girl, you
25 just testified a moment ago?

1 A No.

2 Q Didn't you make some comment to him about trading
3 with someone?

4 A Yes. She wanted a job in quality while I traded
5 with her.

6 Q Other than this one time did anyone ever give you any
7 explanation why this was going on?

8 A No.

9 MR. MERCER: I will pass the witness.

10 I have some statements.

11 TRIAL EXAMINER: We will take a five minute recess.

12 If you need more time let me know.

13 (A recess was taken.)

14 TRIAL EXAMINER: The proceeding will be in order.

15 You may proceed, Mr. Hill.

16 CROSS-EXAMINATION

17 BY MR. HILL:

18 Q Miss Robertson, you said you see the maintenance men
19 sitting around now.

20 You are not working at the plant now, are you?

21 A No, not at this time.

22 Q When was the last time you did work here?

23 A May nineteenth.

24 Q Prior to the change in the arrangement of your
25 supervisor to whom you reported, I believe you said there was

1 a time changed when you began reporting to Bill Payne?

2 A Yes.

3 Q Prior to that time to whom did you report?

4 A Wilbur Parish.

5 Q He works days?

6 A Days.

7 Q Did you see him at the beginning of your shift?

8 A He would check on us at 4:00 o'clock before he went
9 home.

10 Q Who checked on you then later in the evening, to
11 whom did you report if you reported to somebody?

12 A We didn't have anyone at that time.

13 Q No supervisors?

14 A Just William Payne over production.

15 Q You had no supervisor?

16 A Not in quality.

17 Q Now you testified regarding a conversation with Mr.
18 Payne on May twelfth, I believe it was.

19 Do you recall Mr. Payne saying anything at that time
20 about Bert Hatchett wearing a Union button?

21 A Yes.

22 Q What do you recall he said?

23 A He said he was wearing a Union button but he was a good
24 worker so he shouldn't ride him with a Union button.

25 Q He was a good worker so there was no reason to ride him?

1 A Yes.

2 Q I believe you testified concerning an offer you made
3 during that time in a conversation to trade with the other
4 girls for a while?

5 A Yes.

6 Q He said that the other girls there wanted a job in
7 quality control and you offered to trade with them?

8 A I said I would offer and let them have my job for a
9 while if they wanted to see if it was as easy as they thought
10 it was.

11 Q This was what, an ordinary coil winding job they were
12 doing?

13 A Yes.

14 Q The same job you said you couldn't do later on?

15 A Yes.

16 Q Now you testified concerning a meeting or conference on
17 May nineteenth in the office with Mr. Payne and Mr. Parish.

18 Whose office was that?

19 A Wilbur Parish.

20 Q I believe you said Mrs. Branam and yourself were present?

21 A Yes.

22 Q Are there any other girls in coil winding quality or
23 is that the entire?

24 A There's another girl but she wasn't in there.

25 Q What is her name?

1 A Twila Robbins.

2 Q Where was she working at that time?

3 A Back in the stick room in quality.

4 Q In the job you were asked to take?

5 A Yes.

6 Q So that there were four girls in quality audit?

7 A Yes.

8 Q ^{Yes} Who were in this meeting and Twila Robbins?

9 A Yes.

10 Q Do you know whether Twila had been talked to about
11 anyone?

12 A I don't know.

13 Q Do you know if she had less seniority than you?

14 A Yes.

15 Q In this meeting did Mr. Parish say anything?

16 A The nineteenth?

17 Q On May nineteenth.

18 A He said I probably would think the reason they brought
19 me in there was the meeting we had on the eighteenth about
20 the general procedures in quality but he said it didn't have
21 anything to that effect.

22 Q Is this the way he opened it up?

23 A (Nods head to signify affirmative.)

24 Q I thought you said Mr. Payne said that.

25 A Mr. Payne first and then Mr. Parish said it didn't have

1 anything to do with the night before.

2 Q Then did I understand Mr. Payne said you were the next
3 to the youngest in seniority?

4 A Yes.

5 Q You were going to bump the girl in the stick room?

6 A Yes.

7 Q I think you said you will have to bump the girl in the
8 stick room where the dust was, were those Mr. Payne's words?

9 A In the stick room or take a coil winding job.

10 Q He did not mention the dust at that time?

11 A No.

12 Q What did you say at that time?

13 A I said, "I can't take quality in the back in the
14 stick room because of the dust."

15 Q Did you mention anything about having to quit?

16 A I said if that was all they had was the two jobs I'd
17 have to quit.

18 Q The other job, the alternative was a straight coil
19 winding job?

20 A And there's a solder pot where they solder the sticks.

21 Q Had you ever soldered in the past?

22 A Yes but not over a solder pot with a hand iron.

23 Q But you had soldered, is that it?

24 A Yes.

25 Q Had you reported to the company that the hand iron

1 soldering bothered you?

2 A: No, it didn't bother me.

3 Q Towards the end of your testimony you testified
4 concerning a conversation with Mr. Payne on May 13 I believe?

5 A Yes.

6 Q I don't believe you said where that conversation took
7 place.

8 A It was on line 7.

9 Q Did you have responsibility for more than one line?

10 A Yes I had two lines.

11 Q What was your other line?

12 A We rotated our lines.

13 Q Had this been a practice right along rotating?

14 A Well they said if it was all right with Mr. Parish
15 that it was all right with him.

16 Q You never did bring in a doctor's statement concerning
17 your allergy regarding solder fumes?

18 A I did approximately 10 or 11 years ago.

19 Q Was this pot soldering?

20 A Yes. At that time I was dipping coils to tin the
21 ends so they would solder.

22 MR. HILL: I think that is all.

23 REDIRECT EXAMINATION

24 BY MR. MERCER:

25 Q You mentioned hand iron soldering.

1 Q Do you work days or nights?

2 A Nights.

3 Q What is your job at present?

4 A Well, I'm color code girl.

5 Q Did I understand you are a color code girl?

6 A Yes. That's in with coil winding.

7 Q Were you working there before the election this year?

8 A Yes.

9 Q Do you know Grace Porter?

10 A Yes, I do.

11 Q Did you ever hear Grace Porter say anything about
12 Tom Beech?

13 A Yes.

14 Q When did this occur?

15 A It was April 14.

16 Q Where were you at the time?

17 A I was at my work station. She was standing right
18 back of me.

19 Q Who was she talking to?

20 A She was talking to Sharon George.

21 Q Who is Sharon George?

22 A Group leader.

23 Q What did you hear her say to Sharon George?

24 A I heard her tell Sharon to watch Tom Beech and if
25 he sat down to report him.

1 Q Did you ever see Tom Beech wearing an IBEW button?

2 A Yes.

3 Q When did you first see him wearing one of those buttons?

4 A It was at night.

5 Q Do you know who the first person was in that department
6 to wear an IBEW button?

7 A It was Tom Beech.

8 MR. MERCER: I have no further questions of this
9 witness.

10 MR. DONNENFELD: No questions.

11 TRIAL EXAMINER: You said April 14. What year?

12 THE WITNESS: Sixty six.

13 TRIAL EXAMINER: This year?

14 THE WITNESS: Yes.

15 CROSS-EXAMINATION

16 BY MR. HILL:

17 Q Miss Merida, what time during the evening was this
18 that you overheard this conversation?

19 A I'm not sure, I think it was around 7:30.

20 Q Who was Sharon George?

21 A She was a group leader.

22 Q Is she still a group leader there?

23 A No. She works in the machine shop.

24 Q Was she your group leader at the time?

25 A I don't know who would be called my group leader.

1 Q Who spoke, do you recall?

2 A Well Bill Payne was the one that told them all.

3 Q To all the maintenance men?

4 A (Nods head to signify affirmative.)

5 Q Did you say that you saw Tom Beech with a Union button
6 that evening?

7 A Yes.

8 Q Is that the first time you saw him?

9 A Yes.

10 MR. HILL: I think that is all.

11 TRIAL EXAMINER: You may step down. Thank you.

12 (Witness excused.)

13 MR. MERCER: Mr. Trial Examiner, with your indulgence
14 I would like permission to have the Union call a witness
15 at this time.

16 They have subpoenaed Mr. Beech. He works in
17 Washington, D. C. now for the National Labor Relations Board
18 and I would like to get him out of here today if we could,
19 the Union would and I would, too, unless someone has an
20 objection.

21 I would like Mr. Donnenfeld to call him at this time.

22 TRIAL EXAMINER: You may do so.

23 Do you mind, do you have any objection?

24 MR. HILL: We don't have any objection.

25 TRIAL EXAMINER: Go ahead.

1 THOMAS RICHARD BEECH

2 a witness called by and on behalf of the Union being first
3 duly sworn, was examined and testified as follows:

4 TRIAL EXAMINER: Give us your full name and address
5 please and speak up.

6 THE WITNESS: Thomas Richard Beech, 5005 Lee Jay Drive,
7 Hillside, Maryland.

8 DIRECT EXAMINATION

9 BY MR. DONNENFELD:

10 Q Mr. Beech, Mr. Mercer stated you are employed by the
11 N.L.R.B., is that correct?

12 A Yes, sir.

13 Q How long have you been with the N.L.R.B.?

14 A Since August first, 1966.

15 Q That is approximately two months?

16 A Yes.

17 Q What do you do at the N.L.R.B.?

18 A I work in the Appellate Court Division, litigation.

19 Q That is in Washington?

20 A Yes.

21 Q And do you write court appeals briefs?

22 A Yes.

23 Q What job did you have before you went to the N.L.R.B.?

24 A I worked as a maintenance man at Sarkes Tarzian in the
25 Hillside plant from early February 1966 to the last of

1 April 1966.

2 Q What shift did you work at the plant?

3 A Nights, 4:00 to 12:30.

4 Q Four p.m. to 12:30 a.m.?

5 A Yes.

6 Q About how many maintenance men were there on the night
7 shift similarly employed?

8 A There were five.

9 Q Five including yourself?

10 A Yes.

11 Q Generally what were the duties of the night shift
12 maintenance men at Sarkes Tarzian at the time you worked there?

13 A To repair the machines and keep them in running order,
14 the machines the girls work on.

15 Q Speak a little louder and slower perhaps.

16 At the time you worked on the night shift, what did
17 you do during the day?

18 A I went to law school, Indiana University at Bloomington.

19 Q Was the company aware you were going to law school?

20 A No.

21 Q Did your going to law school in any way interfere with
22 your night work?

23 A No.

24 Q Causing you to be absent at any time?

25 A No.

1 Q At the time you were employed at Sarkes Tarzian as a
2 night shift maintenance man, were you ever attending Union
3 meetings?

4 A Yes. I attended all of them that were held.

5 Q About how many were there?

6 A About four or five.

7 Q Did you wear a Union button while you worked on the
8 night shift as a maintenance man?

9 A Yes, I did.

10 Q What date did you begin wearing a Union button?

11 A April 14, 1966, Thursday night.

12 Q At the time you were wearing or began wearing this
13 Union button were any other employees on the night shift
14 wearing Union buttons?

15 A None. I was the first one.

16 Q You were the first one on the night shift?

17 A Yes.

18 Q Now on April 14, 1966 or soon thereafter, did any
19 change take place in your working conditions?

20 A Yes, right after supper. We had supper 8:00 to 8:30.

21 Right after I got back from supper I was talking to some
22 maintenance men and as I broke away from them and walked away
23 Mr. Payne, the night foreman, called me aside where Mrs.
24 Porter was standing. He instructed me that I was being
25 transferred from the night shift to the day shift beginning

1 the next Monday and he gave the reason because the maintenance
2 man on days had quit.

3 Q What did you do when you heard about that transfer?

4 A I complained about it that when I was hired in there
5 I said I had to have night work and he said --

6 Q (interrupting): Who is "he"?

7 A Mr. Payne. Mr. Payne then told me he had nothing to
8 do with my transfer, Mr. Polley transferred me; Jennings
9 Polley, plant manager, and if I wanted to complain I could
10 come in and see him the next day it was Friday before work.

11 Q That would be the fifteenth of April?

12 A Yes.

13 Q Did you go see Mr. Polley the next day?

14 A Yes, I did.

15 I came in to work early at 3:30 and I went to Mr.
16 Polley's office.

17 Q What did you tell Mr. Polley?

18 A Well he was there with Mr. Payne and I sat down there
19 and told him the same thing I told Mr. Payne, that I had to
20 work nights and I told them at the employment office when
21 I was hired in and he said it was agreeable to him then and
22 he rescinded the order, he said I could go back on nights.

23 Q Did Mr. Polley give you any reason for rescinding the
24 order transferring you to the day shift?

25 A Yes, he did. He said he thought I was a cam man.

1 Q Would you tell us what a cam is?

2 A It's a plain shaped copper plate, real thin about
3 sixteenth of an inch and as it turns it has notches in it.

4 Q It is a piece of machinery of some kind?

5 A Yes. An intricate piece on a stick winding machine.
6 Each notch makes a winding stick.

7 Q What does a cam man have to do?

8 A They have to weld it, build it up and file it down
9 and change the notches.

10 Q Were you a cam man?

11 A No.

12 Q Is there any difference at the Sarkes Tarzian plant
13 between a cam man and a maintenance man such as you were?

14 A Yes.

15 Q Does a cam man have any training a maintenance man
16 does not have?

17 A Yes.

18 Q What type of training is that?

19 A Well, both require on the job training but a cam man it
20 takes many weeks to learn the job.

21 You have to follow the guy around and watch every step
22 of the way because if you file it down just a hair off, just
23 a little too much then it comes out bad on the machine.

24 MR. HILL:: I object, your Honor, to this conclusion
25 of his. He already said he was not a cam man. I don't think

1 he is qualified to give it.

2 BY MR. DONNENFELD:

3 Q Had you had any of this cam training that you were
4 just discussing?

5 A None.

6 Q Had any of the --

7 MR. HILL (interrupting): I move to strike his
8 testimony on what he gave, his conclusion as to how difficult
9 it was to be a cam man.

10 TRIAL EXAMINER: Well I think I will let it stand.
11 It went in without objection that far.

12 BY MR. DONNENFELD:

13 Q Had any of the five individuals that worked with you
14 on the night shift as maintenance men had any cam training?

15 A Yes, two of them.

16 Q And yourself, you were not one of them?

17 A No.

18 Q Based on the information available to you, did Mr.
19 Polley have any basis to believe that you had cam training?

20 A (Shakes head to signify negative.)

21 MR. HILL: Objection.

22 TRIAL EXAMINER: Sustained.

23 BY MR. DONNENFELD:

24 Q Now in addition to the order transferring you to the
25 day shift, did any other changes take place in your working

1 conditions on or after April 14, 1966?

2 A Yes. The next day, April 15, after I come out of
3 Mr. Polley's office and started work at 4:00 o'clock Mr.
4 Payne came out about 4:30 and called a meeting of the
5 maintenance men.

6 At that meeting he instructed us they would change
7 two things, the assignment to our machines and he was also
8 going to change the work rules.

9 Q Tell us about the change in the assignment to machines.
10 Give us the circumstances surrounding that change.

11 A Well, when I was first employed there we always used
12 to rotate machines but the girls, there's 13 girls in a group
13 and there's a group leader, and every week they moved from
14 one set of machines to the next and the last week in March
15 the company decided that the girls choose whether they wanted
16 to remain on one set of machines or whether they were going
17 to keep this rotation.

18 MR. HILL: I move to strike as to what the company
19 decided. It is a conclusion.

20 TRIAL EXAMINER: Sustained.

21 BY MR. DONNENFELD:

22 Q Go ahead.

23 A The girls voted and they decided to stay on one set
24 of machines and I wound up staying on the best set. I
25 stayed with a certain number of girls, the same girls.

1 Q You said you stayed with the best set. What made it
2 the best set?

3 A It was the newest.

4 Q Why did that have any advantages?

5 A They run better. They require less work.

6 Q Now how long did that arrangement continue where
7 you were assigned to the best set of machines?

8 A Until April 15.

9 Q What happened then?

10 A Well, then he told me all the maintenance men,
11 maintenance people were going back to change, the girls
12 would stay, we'd change girls, too. Before I'd always
13 follow the same girls around but now the maintenance men
14 moved, the girls stayed where they were, just the maintenance
15 people.

16 Q This new procedure went into effect on April 15, 1966?

17 A He told us about it was going to go into effect the
18 next Monday.

19 Q Did it actually go into effect?

20 A Yes, it did.

21 Q Now in addition to this change regarding the assignment
22 of maintenance men to sets of machines, did any change in
23 working conditions or work rules take place on or immediately
24 after April 14?

25 A Yes. He also informed us at this meeting April 15

1 that we were to change our work rules.

2 When I started to work there the maintenance men told
3 me they had to start with --

4 MR. HILL: Objection. This calls for hearsay.

5 The question was what was told to them by Mr. Payne
6 at that time.

7 What he is testifying to is a conclusion based upon
8 hearsay evidence what somebody else told him.

9 TRIAL EXAMINER: As a practice what prevailed when
10 you first went to work there?

11 MR. HILL: He is testifying as to what the men told him.

12 The question was what Mr. Payne said.

13 MR. DONNENFELD: I must point out the question was not
14 what.

15 The question was give us the circumstances surrounding
16 the work rules.

17 MR. HILL: He is now testifying based on hearsay
18 evidence.

19 TRIAL EXAMINER: Wasn't there something said about
20 what the practice was?

21 MR. DONNENFELD: Will you tell us what the practice
22 was with regard to this particular work rule prior to April 15,
23 1966?

24 MR. HILL: And after you began working.

25 THE WITNESS: I had been instructed by the maintenance

1 men and Mr. Payne that I was to stay on one set of machines,
2 the machine I was assigned to and all the time be present
3 in case the machine broke down the girls could find you,
4 they wouldn't have to run all over for you. So I was
5 supposed to remain with that one set so I was sure it was
6 running proper and if it was running properly relax.

7 BY MR. DONNENFELD:

8 Q Now that procedure did you way was changed on April 15?

9 A Yes.

10 Q What was the procedure that went into effect on and
11 after April 15?

12 A Mr. Payne instructed we were no longer to sit down
13 at all and quit talking to the girls, to keep busy at all
14 times and if the new machines were running properly to find
15 work somewhere along the lines even if the machines weren't
16 being operated we were supposed to check them out.

17 Q Did you say you were forbidden to sit after April
18 fifteenth?

19 A Yes, sir.

20 Q Did this apply to all of the five maintenance men on
21 the night shift?

22 A Yes, sir.

23 Q Did the men cease their sitting activities after
24 April 15?

25 A Yes, sir.

1 Q Did this practice, this change continue until you left
2 the plant?

3 A Yes, it did.

4 Q Approximately how long was it between this change and
5 the time you left the plant?

6 A Two weeks.

7 Q And all that time this new practice regarding your
8 work rules remained in effect?

9 A Yes, it did.

10 Q Was there any other change in the working conditions
11 that you noticed?

12 A On April 14 or very soon thereafter it was constantly
13 watched.

14 Q Beginning with that period?

15 A Yes.

16 MR. HILL: Objection. I move to strike that as a
17 conclusion.

18 He can testify as to what happened. He just can't say
19 it was constantly watched.

20 TRIAL EXAMINER: Yes, I think so.

21 The objection will be sustained.

22 BY MR. DONNENFELD:

23 Q Did you notice any unusual activity surrounding --
24 let me start all over again.

25 Did you notice after April 15 that supervisors --

1 MR. HILL (interrupting): Objection. He is leading
2 the witness.

3 TRIAL EXAMINER: Let's hear the question.

4 MR. DONNENFELD (continuing) -- that the supervisors
5 were watching you to a greater extent than they had watched
6 you prior to April 15?

7 MR. HILL: Objection. This calls for a conclusion
8 of the witness.

9 He can testify as to what happened, what he saw.

10 TRIAL EXAMINER: Objection sustained.

11 MR. DONNENFELD: Do you know Gracie Porter?

12 THE WITNESS: Yes, I do.

13 MR. DONNENFELD: Did you have any contact with
14 Gracie Porter on or after April 14 or April 15?

15 THE WITNESS: Yes, I did.

16 MR. DONNENFELD: Did Gracie Porter watch you?

17 MR. HILL: Objection. This calls for his conclusion.

18 He can testify as to what he observed, when and where.

19 BY MR. DONNENFELD:

20 Q Would you please tell us what you observed regarding
21 Gracie Porter or any other supervisors on or after April 14
22 or April 15?

23 A Yes. Whenever I was working on the machines one of them
24 would be watching me, Gracie Porter, William Payne, the
25 oldest maintenance man Marvin was his name, Sharon George,

1 those four mainly kept an eye on me wherever I went, even
2 when I left my set and went down to the far end of the plant
3 where no one was present one of them would drift down.

4 Q When did this begin?

5 A April 15.

6 MR. HILL: I move to strike the part "one of them would
7 drift down."

8 He is not testifying to facts. It is a very general
9 conclusion. He has not identified the person in this instance
10 he is talking about.

11 We move to strike it.

12 TRIAL EXAMINER: It may stand. You may cross-examine
13 him later on on that.

14 Let the testimony stand.

15 BY MR. DONNENFELD:

16 Q When you said this watching activity began April 15 --

17 A (interrupting): Yes.

18 Q (continuing) -- did it continue all the time you were
19 at the plant until you left?

20 A Yes, it did.

21 Q Were these people who were watching you watching the
22 other four maintenance men on the night shift?

23 A Not that I recall.

24 Q Were these people who were watching you after April 15,
25 had they watched you prior to April 15?

1 A They watched me as far as my working. Sometimes they
2 would glance at me.

3 Q Did they watch you more extensively after April 15?

4 MR. HILL: Objection. An obvious conclusion.

5 MR. DONNENFELD: Mr. Examiner --

6 TRIAL EXAMINER (interrupting): He may answer that
7 question.

8 THE WITNESS: Yes, they did.

9 MR. DONNENFELD: Could you please tell us what the
10 reaction was of your fellow employees on April 14 when you
11 began wearing a Union button?

12 MR. HILL: I object again.

13 TRIAL EXAMINER: Sustained.

14 MR. DONNENFELD: I pass the witness, your Honor.

15 MR. MERCER: I have a couple of questions.

16 DIRECT EXAMINATION

17 BY MR. MERCER:

18 Q Mr. Beech, who interviewed you originally for your
19 position at Sarkes Tarzian?

20 A Mr. England.

21 Q Did you have a conversation with Mr. England whether
22 you work days or nights?

23 A Yes, I did.

24 Q Would you tell us what you told him and what he told
25 you?

1 A Well he wanted to start me on days and I told him I
2 could not start days I'd have to work nights.

3 Then he said, well, he'd have to check and find out
4 and I went home.

5 The next day he phoned me and said I could come on
6 nights.

7 Q He called you at home the next day?

8 A Yes.

9 MR. MERCER: I have no further questions.

10 TRIAL EXAMINER: When did you begin working for the
11 company?

12 THE WITNESS: The first part of February 1966. I'm
13 not sure of the date.

14 CROSS-EXAMINATION

15 BY MR. HILL:

16 Q Mr. Beech, at the time you talked with Mr. Payne and
17 he told you that you were to report to work on the day shift,
18 I believe you stated that he said, if you had any complaints
19 you would have to talk to Mr. Polley?

20 A Yes.

21 Q Did he tell you the reason for your transfer?

22 A Yes. He said the maintenance man quit on days and
23 they needed one to replace him.

24 Q Then I believe you testified on the fifteenth, the
25 same day, there was a meeting at which the maintenance men

1 were talked to by Mr. Payne?

2 A: No, sir.

3 Q The next day?

4 A Yes.

5 Q That would be the fifteenth.

6 A The fifteenth.

7 Q Or the day you talked to Mr. Pilley?

8 A Yes.

9 Q When you were told that you should continue working,
10 was there anything said about helping any other maintenance
11 men on the other sets?

12 MR. DONNENFELD: I did not hear that, the last part.

13 BY MR. HILL:

14 Q Was there anything said about the other maintenance men
15 helping the other maintenance men or the other sets or other
16 groups?

17 A Yes.

18 Q What was said about that?

19 A He said keep busy on your own set. If anyone else
20 needed help to help them or if they needed help, you'll find
21 work.

22 Q Do you know whether or not that had been a practice
23 prior to this time?

24 A Yes, it had.

25 Q Right after that meeting did you have an opportunity

1 to talk with Mr. Payne, after that meeting?

2 A Oh yes.

3 Q On what occasions were you talking to Mr. Payne?

4 A Do you mean after this meeting?

5 Q Yes.

6 A As I walked away I went to talk to this girl and
7 what came up in the meeting.

8 Q How long did you talk to her did you say at that time?

9 A About a minute. I just started talking to her.

10 Q What did Mr. Payne say?

11 A He come right up sudden like. He said that I should
12 get back to work, he just got through giving us a talk.

13 Q Did he say this was the sort of thing he had been
14 talking about?

15 A He said this is why we had the meeting we told you about.

16 Q When you were hired in and filled out your application,
17 did you show your application to John England when you were
18 interviewed?

19 A Yes, sir.

20 Q Did he ask any questions about your education at all?

21 A On the application?

22 Q Well on the application or did Mr. England ask any
23 questions about your education?

24 A No, sir, I don't remember him asking any questions
25 about my education.

1 Q Were there any questions about education in your
2 application?

3 A Yes, there were.

4 Q Did you fully complete those questions and give
5 complete answers?

6 A No, sir.

7 Q Did you indicate you had been to college?

8 A No, sir.

9 Q Did you indicate you had been to law school?

10 A No, sir.

11 Q Did you realize by omitting facts called for or not
12 you could be separated from the company?

13 A Yes, I did.

14 Q Were you still willing to do that deliberately withhold
15 that?

16 MR. MERCER: Objection.

17 MR. HILL: Did you state you deliberately withheld --

18 TRIAL EXAMINER (interrupting): Sustained.

19 BY MR. HILL:

20 Q When did you take your job with NLRB?

21 A When did I begin work?

22 Q Yes.

23 A August first, 1966.

24 Q When did you interview for the job?

25 MR. DONNENFELD: I object to that. I don't see what

1 Q What time does the shift start?

2 A Four o'clock.

3 Q Did you hear Mrs. Merida give her testimony?

4 A Yes, I did.

5 Q If she said 4:00 o'clock was she in error?

6 A I think she was because I know I was working. It
7 was after 4:00 o'clock. I was working before the meeting.

8 Q When did you quit your job at Sarkes Tarzian?

9 A I don't remember the last day. It was the last of
10 April.

11 Q Would it have been April twenty second?

12 A I think it was later than that. I don't remember the
13 exact date.

14 Q Does that letter you handed out say April twenty second,
15 would that be accurate?

16 A Yes it would.

17 Q Would it be April twenty second?

18 A If it says in the letter. I don't remember what the
19 letter said, to be honest.

20 Q Did you write this letter?

21 A Yes, I did. May I see it?

22 Q Yes.

23 A Yes.

24 MR. MERCER: Did you give that a number?

25 MR. HILL: No.

1 TRIAL EXAMINER: Is that the date of the letter
2 April twenty second?

3 MR. HILL: Yes. That is the date of the letter.

4 THE WITNESS: Let me see it again.

5 Friday, April twenty second would be the last night.

6 BY MR. HILL:

7 Q It was about a week after this talk by Mr. Payne that
8 you quit?

9 A Yes.

10 Q You stated that prior to the change in rotation that
11 the girls had rotated machines, is that correct?

12 A Yes.

13 Q Would you rotate along with the girls?

14 A Yes.

15 Q Was this a practice when you first started working for
16 the company?

17 A Yes, it was.

18 Q It continued up until that date, up until the date of
19 the change which you spoke of?

20 A Right.

21 Q And I believe you said that the girls had voted and
22 decided to stay on one set, was that while you were there?

23 A Yes. The girls had voted, they all voted, the majority
24 said they wanted to stay on one set.

25 Q When did that occur, that vote?

1 A Around the twenty fifth of March, twentieth to twenty
2 fifth, around there.

3 Q So that from the twenty fifth of March until the
4 fourteenth or fifteenth of April there was not any rotation?

5 A That's correct.

6 Q You stated that various people watched you, kept an
7 eye on you whenever you were working. Would you name those
8 people again please?

9 A William Payne, foreman. Gracie Porter, assistant
10 foreman. Sharon George, group leader. And Marvin, I forget
11 his last name, the maintenance man.

12 Q What would they do? Tell us please. For example,
13 how would Marvin watch you?

14 A Well, I'd go down to the far end of the building where
15 there wasn't anyone, 30 or 40 feet up there and I'd start
16 testing machines, keep busy, Marvin would come down and stand
17 next to me for a while and watch me.

18 Q Isn't it true when you started working there you were
19 trained with another maintenance man, when you first began
20 working did you train with another maintenance man?

21 A Briefly yes.

22 Q How long?

23 A There was no steady time I stayed with him.

24 Q How long did you train with the maintenance man, in
25 days, weeks?

1 A When you have a problem you see one of the guys,
2 problems we can't see, when you see one that's experienced.
3 I didn't train with them at all.

4 Q No one went around with you to show you what to do?

5 A Yes, the first two or three days.

6 Q Who was that?

7 A Marvin and Raymond.

8 Q So Marvin broke you in on the job?

9 A Yes, mostly, Raymond did, too.

10 Q And did you say Payne, the other people who watched
11 you were Payne, Porter and Sharon George, Payne was the foreman?

12 A Yes.

13 Q Porter was the assistant foreman?

14 A Yes.

15 Q And George was a group leader?

16 A Yes.

17 Q They watched you do your work, is that right, they
18 watched you while you worked?

19 A At all times whenever I wasn't working.

20 Q Did they watch you when you were supposed to be working?

21 A I beg your pardon.

22 Q Did they watch you when you were supposed to be working?

23 A They watched me 8 hours.

24 Q All three of these people watched you 8 hours a day?

25 A It was from the fifteenth on, I can't remember two or

1 three times one of them wasn't there watching.

2 Q Do you want the Trial Examiner to believe these three
3 people watched you 8 hours a day?

4 A Four people.

5 Q Those four people did nothing but watched you 8 hours
6 a day?

7 A One of them. I didn't say all watched me.

8 I can never recall a time when one wasn't near me or
9 watching me.

10 Q Wasn't it the job of George and Payne to be there at
11 night, isn't that their job to be in the area?

12 A Well, Sharon was to be with the girls. Sharon was
13 assigned to one set of girls as a group leader.

14 Q Didn't you at a time work with the set which Sharon
15 George was assigned?

16 A Not very often.

17 Q But you did?

18 A Yes, sir.

19 MR. HILL: Nothing further.

20 MR. MERCER: I have one question.

21 Approximately how many people were working there
22 underneath Mr. Payne's direction on that night shift?

23 THE WITNESS: Over a hundred, approximately.

24 MR. MERCER: Was there any foreman on duty besides
25 Mr. Payne?

1 THE WITNESS: None.

2 MR. MERCER: Was there any assistant foreman on duty
3 besides Grace Porter?

4 THE WITNESS: None. Just the two.

5 MR. MERCER: I have nothing further.

6 MR. HILL: No questions.

7 TRIAL EXAMINER: That is all. You may step down.

8 (Witness excused.)

9 SANDRA LAVEN

10 a witness called by and on behalf of the General Counsel
11 being first duly sworn, was examined and testified as follows:

12 TRIAL EXAMINER: Give us your full name and address
13 please and speak up loud.

14 THE WITNESS: Sandra Laven, Rural Route 5, Box 7,
15 Bloomington.

16 DIRECT EXAMINATION

17 BY MR. MERCER:

18 Q Sandy, were you ever employed at Sarkes Tarzian?

19 A Yes.

20 Q When did you begin work there?

21 A The first time?

22 Q Yes.

23 A That was when I was 18 years old. I'm 22 now.

24 Q You worked there in 1966?

25 A Yes.

1 Q When did you start in 1966?

2 A I don't know the exact day but it was the week after
3 the election.

4 Q The week after the NLRB election?

5 A Yes.

6 Q That is this year you are talking about?

7 A Yes.

8 Q What was your job there at that time?

9 A I worked on the stick machine.

10 Q What did you do on the stick winding machine?

11 A I put the stick in, wrapped the coil around. I put
12 the channel stick in the machine and it wrapped a wire around
13 the stick and I picked the excess wire off.

14 Q Did you work on high channel or low channel?

15 A High channel.

16 Q What was the rate on the job you were working on?

17 A Twenty seven trays a day.

18 Q Did you make rate?

19 A No, I did not.

20 Q Were you discharged?

21 A Yes, I was.

22 Q When were you discharged?

23 A I don't know the exact date but it was just before they
24 were to start on vacation. It was approximately a week, maybe
25 two weeks before.

1 Q Did you know Bobby Bennett?

2 A Yes, I did.

3 Q Do you know when she was discharged in relation to when
4 you were?

5 A Yes. We were discharged the same day.

6 Q Who do you work for now?

7 A Sarkes Tarzian.

8 Q When did you go back with them?

9 A I went back the Wednesday after they returned from
10 vacation, the twentieth of July sixty six.

11 Q Did they call you up or did you call them up?

12 A Della Haynes called, no, Ruth McCoy called me before
13 they went on vacation and told me to come in July 18 and I
14 did I went in the nineteenth.

15 Q A day late?

16 A Yes.

17 Q Who did you see when you went in?

18 A Ruth McCoy.

19 Q Do you know what job it was they had for you on the
20 eighteenth?

21 A No. When I went in the nineteenth she told me the job
22 they had for me was at the rectifier plant on College and that
23 it had to be filled the day before because I didn't come in
24 but they had another job that she thought would be available
25 for me and she would call back.

1 Q What was that job?

2 A I worked in the air trimmer division on South Walnut
3 Street.

4 Q Are you working there now?

5 A Yes, I am.

6 Q What is your rate of pay now?

7 A At the present time it's a dollar thirty seven.

8 Q The day that you were discharged who informed you of
9 your discharge?

10 A My group leader, Mary Sawyer, told me that my foreman
11 Howard Trinkle wanted to speak to me and so I went to see him
12 and he told me that since I had not made rate they were going
13 to have to let me go and I was to go see Della Haynes which
14 I did.

15 Q What did Della Haynes say to you and what did you say
16 to Della Haynes?

17 A Della Haynes told me that since I had not made rate they
18 were going to have to discharge me. At this time I told her
19 that when I hired in that Howard Trinkle had told me if I
20 could not make rate on the stick winding machine I would be
21 given another job and I asked her about this and I wanted to
22 know why they would discharge me instead of giving me a chance
23 on another job which he had told me would be done.

24 Q What did she say to this, if anything?

25 A She said that there were no jobs open at the time for

1 me, that they were ready to go on vacation and they weren't
2 doing any hiring, that she would talk to Ruth McCoy and see
3 if something might come up later.

4 Q Since you came back to work at Sarkes Tarzian has any
5 foreman or anyone in personnel or Della Haynes explained to
6 you why they called you back?

7 A No, sir.

8 MR. MERCER: I will pass the witness.

9 I do not have a statement.

10 CROSS-EXAMINATION

11 BY MR. HILL:

12 Q Mrs. Laven, could you be in error concerning the rate
13 for that job you were on?

14 A I don't believe I am.

15 Q Is it possible it could have been 29?

16 A I believe 29 trays is for the low channel.
17 I was working on high channel which is 27 trays.

18 Q Is it possible you may be in error on that?

19 A It's possible but I don't think I am.

20 Q Had you been given a warning concerning your work by
21 Mr. Trinkle?

22 A Yes, I was, a week and a half before I was discharged.

23 Q I hand you what has been marked as Respondent's Exhibit
24 Number 1 and ask you to examine that and ask you if you can
25 identify that.

1 A Yes. Mr. Trinkle showed this to me and told me at the
2 time that I was being given a warning that I had not made rate,
3 he gave me a week in which to improve or make rate and I
4 signed it.

5 (The document was marked
6 Respondent's Exhibit No. 1 for
identification.)

7 Q Is that a copy of the original?

8 A Yes, it is.

9 Q Is this the original which you signed?

10 A Yes, it is.

11 Q Is this a true copy of that?

12 A Yes.

13 Q It contains your signature?

14 A Yes, it does.

15 MR. HILL: Respondent offers Respondent's Exhibit Number
16 1 in evidence.

17 MR. MERCER: I have no objection.

18 TRIAL EXAMINER: It may be received.

19 (The document heretofore marked
20 Respondent's Exhibit No. 1 for
identification was received.)

21 BY MR. HILL:

22 Q On what date did you start on the job on stick winding,
23 do you recall?

24 A No, I don't. I don't know the exact date.

25 Q The first day you were on that job did you receive any

1 instructions on what to do on the job?

2 A Yes. . I spent the first half of the day with a girl
3 that had been there and was working on the stick winding
4 machine. She showed me how it was done and I helped her do
5 part of her operation as training.

6 Q What was her name do you recall?

7 A No, I'm sorry I don't.

8 Q Was she a group leader?

9 A She was just a girl on the machine.

10 Q Was Bobby Bennett in this same area that you worked?

11 A No, she was not.

12 Q Do. you know whether you hired in on the same day as
13 Bobby Bennett?

14 A No, I do not.

15 Q Do you know whether you hired in earlier than she did?

16 A No, I do not.

17 Q Were you talked to at all by Mr. Trinkle when you first
18 were assigned to this department?

19 A Yes, I was.

20 Q What did he say at that time?

21 A He told us there was another girl, I don't remember
22 her name, she quit a week after she hired in, but at that time
23 he told me that it would be to my advantage and to her
24 advantage if we would try our best to do the best job we
25 could, that if we did not make rate during our training period

1 on this job that we would be given another job and usually
2 this job would be even harder, but we would be given another
3 job in which to try to make rate on.

4 Q Did he say anything about getting another job if
5 there was one available or anything like that?

6 A No, sir, he did not. He just said we would be given
7 another job.

8 Q Where were you when this conversation took place?

9 A I was standing at the assistant foreman's desk.

10 Q Who was the assistant foreman?

11 A I don't know her name.

12 Q Do you know the other girl he spoke to at the time?

13 A I don't know her full name. I know her first name
14 was Sarah.

15 Q Sarah?

16 A Yes.

17 Q Was the assistant foreman present at that time?

18 A No, she wasn't.

19 Q Just Mr. Trinkle?

20 A Just Mr. Trinkle.

21 Q You and Sarah?

22 A Yes.

23 Q Do you know approximately how close to the rate you
24 were at that time, how many trays a day you were doing?

25 A The highest I got was 21 trays a day.

1 Q Twenty one?

2 A Yes.

3 Q How long was it that you worked on that job?

4 A I don't know how long I worked on that job.

5 I know I had been there long enough to receive my
6 first raise.

7 Q Can you tell us approximately how long that would have
8 been?

9 A I believe approximately three or four weeks.

10 Q Had you attained 21 trays by the end of the four
11 weeks, three or four week period?

12 A Yes.

13 Q Did you say Sarah had quit?

14 A Yes, she had.

15 Q When you were rehired by the company, did you say you
16 went to the air trimmer division?

17 A Yes, I did.

18 Q Is that where you are currently employed?

19 A Yes, sir.

20 Q Where is that located?

21 A That is in the building of WTTS Radio Station on South
22 Walnut.

23 Q What work are you doing there?

24 A I'm on test work now.

25 Q You are not doing stick winding?

1 A No.

2 Q At the time you talked with Mrs. Haynes, at the time
3 you were terminated because of your failure to make rate,
4 did you say anything to her at that time about another job
5 being available in the future?

6 A She said at that time there was no job available that
7 they could put me on because of vacation coming up, that
8 there may be something in the future.

9 Q There might be something in the future?

10 A Yes.

11 Q What did you say?

12 A I thanked her and I said that I would come back after
13 vacation.

14 Q When did you receive your call from Ruth McCoy?

15 A Approximately a week before vacation started.

16 MR. HILL: I think that is all.

17 I have one omitted question. May I?

18 TRIAL EXAMINER: Yes.

19 BY MR. HILL:

20 Q What are your duties as a tester?

21 A I test the air trimmers to make sure there are no dust
22 particles, burrs, anything of that sort to cause the trimmers
23 to short out.

24 Q How do you physically make this test?

25 A I place the trimmer itself in the fixture and use an

1 instrument similar to a screw driver to insert in one end of
2 the trimmer to turn the blades and at the same time pressing
3 a button that turns the electricity on, so that if there is
4 anything between these blades it will show up on the little
5 light. I pick it out and remove it some way.

6 Q Is this a different kind of a job than stick winding?

7 A Yes.

8 Q Is there a rate on the job which you hold now, a
9 required rate?

10 A Not that I know of.

11 Q Has your work performance been satisfactory on this
12 job so far as you know?

13 A As far as I know it has. No one said anything to me
14 about improvement.

15 MR. HILL: That is all.

16 REDIRECT EXAMINATION

17 BY MR. MERCER:

18 Q You testified that you made 21 trays at one time or
19 another. How many times did you make 21?

20 A I couldn't say truthfully any certain number. I
21 know I made it. It was in the last week. I made it at
22 least three times.

23 Q Did you ever make more than that?

24 A As recorded on record there for me no but in my
25 personal count, yes, I did go over 21 but it was not recorded

1 THE WITNESS: Bobby L. Bennett, 1110 West Fourteenth
2 Street, Bloomington, Indiana.

3 DIRECT EXAMINATION

4 BY MR. MERCER:

5 Q Mrs. Bennett, were you ever employed at Sarkes Tarzian?

6 A Yes, sir.

7 Q When did you start there?

8 A Around the thirteenth or fourteenth of January, this
9 year.

10 Q What plant did you work in?

11 A Hillside.

12 Q What was your first job?

13 A I worked on finish. I put grease on the contacts.

14 Sometimes I put the rollers in. On one occasion I built up
15 shafts.

16 Q How long did you do that?

17 A Oh, for about I guess three weeks, maybe a little
18 over.

19 Q What was your next job?

20 A Rivet base, line 9.

21 TRIAL EXAMINER: Speak up.

22 THE WITNESS: Rivet base, line 9.

23 BY MR. MERCER:

24 Q Who transferred you to rivet base?

25 A Mary Richardson, assistant foreman.

1 Q Who was your foreman on the rivet base job?

2 A Winnie Wampler.

3 Q What did you do on rivet base?

4 A I put the plugs in and two screws and a small nail,
5 it looks like a little nail and stamped them.

6 Q How long did you work on the rivet base job?

7 A Oh, I guess I was there six, eight weeks, maybe a
8 little longer.

9 Q Was there a rate on that job?

10 A Yes, sir.

11 Q Did you make rate?

12 A Yes, sir.

13 Q Was there any rate on that first job you worked on?

14 A No. I was just doing odd jobs. They could place me
15 on most any job.

16 Q Now, were you transferred from the rivet base job?

17 A Yes, sir.

18 Q Who informed you of the transfer from rivet base?

19 A Marie Richardson told us, gave us a card on the
20 evening of the twenty third and we went to report over on
21 the stick winding on the twenty fourth of May.

22 On the morning of the twenty fourth Mr. Wampler took
23 us to Mr. Trinkle.

24 Q What did you do for Mr. Trinkle?

25 A I went on a stick winding machine on line 9 on

1 channel 10. Twenty nine trays a day was the rate to be made.

2 Q Was that the high channel or low channel?

3 A That was the high channel machine.

4 Q That was 29 a day?

5 A Twenty nine a day.

6 Q Do you know what the rate was on the low channel?

7 A No, sir. As far as I know the low channel was
8 around 25. I'm not positive.

9 Q You didn't work on that channel?

10 A I didn't work on that.

11 Q When you went to work for Mr. Trinkle, did he have
12 any conversation with you about production rates?

13 A Yes, sir. On the twenty fifth day of May I talked with
14 him.

15 Q Did he call you in or did you go to him or what?

16 A He sent for me to come to his desk.

17 Q Did you talk to him there at his desk?

18 A Yes.

19 Q Just the two of you?

20 A No, sir. The assistant foreman was there and another
21 woman. I don't know who the other woman was.

22 Q Will you tell us what was said to you about rate that
23 day?

24 A Yes, sir. He told me on ^{that} ~~the~~ ^{trays a} twenty ninth day it was ~~not~~
25 impossible, he had other girls making it.

1 I asked him if the company felt the rate could be
2 made with a regular eight hour day of work why did some of
3 the women work on their breaks and on their lunch hour.

4 He told me that some of them got done from their
5 work too early.

6 Then I asked him why when you were on a machine that
7 was working properly, why were you shifted from machine to
8 machine and he said, "We have our reasons." What his reasons
9 are I don't know.

10 Q Mrs. Bennett, were you ever shifted from one machine
11 to another?

12 A Yes, sir. From the time that I went on the stick
13 winding to the day that I was discharged I was shifted from
14 machine to machine.

15 One day before noon I was on seven machines. I was
16 shifted and it wasn't working properly when I got to the
17 machine.

18 Q Did you say one day before noon you were on seven
19 different machines?

20 A Seven different machines.

21 Q Mrs. Bennett, were you ever called in by Mr. Trinkle
22 and talked to about your production other than this first
23 time?

24 A Yes, sir. I was sent for again. I believe it was
25 on the eighth of June I believe.

1 Q Was anybody there besides you and Mr. Trinkle?

2 A No, sir, just me and Mr. Trinkle.

3 Q Tell us what he said and what you said.

4 A He told me I hadn't made production. He asked me if
5 he gave me another week did I think I could make it. I told
6 him that I would do the best that I could to make rate and
7 he said, "I have a paper here. Do you want to sign it?" I
8 said, "No. Absolutely not. I will not sign my name to
9 nothing."

10 I don't know what the paper said because I didn't read
11 it.

12 Q Did you make the 29 trays a day?

13 A No, sir, I did not.

14 Q Now what day were you discharged?

15 A The fifteenth day of June.

16 Q What happened?

17 A The group leader come and told me that Mr. Trinkle
18 wanted me to come and see him. I went to Mr. Trinkle --

19 TRIAL EXAMINER (interrupting): Slower.

20 THE WITNESS: I went to see Mr. Trinkle and he told
21 me to go to the office to Della Haynes. I went to the office.

22 BY MR. MERCER:

23 Q That is Della Haynes, the nurse?

24 A Yes. Della Haynes.

25 Q You went to the office to see her?

1 A Yes, sir.

2 Q Tell us what happened when you got to the office.

3 A Well, she told me that I hadn't made rate. I said,
4 "Well I made it on rivet base." She told me they'd have
5 to let me go. She said she knew I had made it on rivet base.
6 I told her there had been no complaints. Mr. Wampler he
7 didn't say anything to me, neither did Mrs. Richardson.

8 Q What was her reply to this?

9 A She said, "We'll have to let you go. We don't have
10 anything else except night shift on stick winding."

11 Q Did she give you your check right then?

12 A She gave me a check and on the check it states to
13 take as though two separate weeks.

14 Q In other words, it was for two weeks pay for just
15 one check?

16 A It was all on one check.

17 Q I hand you what has been marked for identification
18 General Counsel Exhibit 29.

19 Mrs. Bennett, is that your signature on that card?

20 A Yes, sir, it is.

21 (The document was marked General
22 Counsel's Exhibit No. 29 for
identification.)

23 Q Who gave you that card?

24 A Agnes Felty.

25 MR. MERCER: I offer General Counsel's 29.

1 MR. HILL: No objection.

2 TRIAL EXAMINER: It may be received.

3 (The document heretofore marked
4 General Counsel's Exhibit No.
5 29 for identification was
6 received.)

7 BY MR. MERCER:

8 Q Mrs. Bennett, did you ever attend any Union meetings?

9 A Yes, I did.

10 Q When did you start attending Union meetings?

11 A Well I don't know the exact dates that I attended.

12 I attended all of them except the first meeting. I didn't
13 attend the first meeting.

14 Q This was before the election?

15 A Before the election.

16 Q Did you join the organizing committee?

17 A Yes, sir, I did.

18 Q I hand you what is in evidence as General Counsel's
19 Number 25. Did you wear one of those badges?

20 A Yes, sir, I did.

21 Q Did you wear it to work?

22 A Yes, sir.

23 Q Can you tell us how long it was before your discharge
24 that you started wearing that organizing button?

25 A Well I wore that organizing button I guess for about
three weeks, maybe longer, at least a couple of weeks before
the election.

1 Q Did you ever pass out any Union cards at work?

2 A Yes, sir.

3 Q Did you ever pass out any Union literature at work?

4 A Yes, sir, I did.

5 Q Where were you when you passed these things out?

6 A I was in the plant either in the rest room or I passed
7 them out before work started in the morning.

8 Q Did you pass out some in the rest room?

9 A Yes, sir, I did.

10 Q Do you recall a meeting before the election?

11 A Yes, sir.

12 Q Do recall a meeting before the election when Mr.
13 Tarzian spoke?

14 A Yes, sir.

15 Q After he had completed his remarks to the employees,
16 did you make any comment?

17 A Yes, sir, I did.

18 Q Will you tell us what you said?

19 A Well, he told us we didn't need a third party to tell
20 us what to do and I asked him, first, I said I was 100
21 per cent for the Union and that I hoped when the time come
22 that those girls would make the right decision.

23 I asked him if it would hurt for the Union to be in
24 there how could he afford to build a plant in Free China
25 to start operating this past May and he told me he borrowed

1 the money.

2 Q Approximately how many people were there when you made
3 these remarks?

4 A Well our whole line was in there. I don't know just
5 exactly how many is on the line but it's about 15, 20
6 people is on our line. It could be more or less.

7 Q What line is that?

8 A Line 9.

9 Q How long was this meeting before the election?

10 A Oh, about a couple of weeks I guess, a week and a
11 half, a couple of weeks.

12 Q Did you attend a second meeting before the election?

13 A I did.

14 Q Where Mrs. Tarzian was present?

15 A Yes, sir.

16 Q Was there a question and answer period at this meeting?

17 A Yes, sir.

18 MR. HILL: Could we have when and where?

19 MR. MERCER: Yes.

20 BY MR. MERCER:

21 Q How long was this before the election?

22 A Just a few days before the election.

23 Q About how many?

24 A About three or four days before the election.

25 TRIAL EXAMINER: This is the second election?

1 MR. MERCER: Yes. In 1966. She did not work until
2 1966.

3 TRIAL EXAMINER: All right.

4 BY MR. MERCER:

5 Q Where was this meeting?

6 A It was in a small room I believe is known as a prayer
7 room.

8 Q Is that also known as the chapel?

9 A Well you can call it a chapel, prayer room, whatever
10 you prefer.

11 Q Did you make any comments during that question and
12 answer period?

13 A Yes, sir.

14 Q Would you tell us what you said at that time?

15 A I told her that I was 100 per cent for the Union.

16 TRIAL EXAMINER: You told who?

17 THE WITNESS: Mrs. Tarzian.

18 We had been talking about no seniority and things and
19 she argued with me that R.C.A. was before your 30 days is
20 up before you go into the Union if you didn't get production.
21 Well I argued. She told me she would prove it to me and
22 she turns around and she asked me if I ever belonged to the
23 Union. I said, "No, I don't have no objections." She said,
24 "Well, maybe you should go where they have one and see what
25 it's like."

1 Then she turns around and said, "Don't tell them I
2 told you to leave. We'd like to have you stay anyway." And
3 she told me she had proof, she could prove to me about R.C.A.
4 Well, the next day after meeting in the office she came to
5 our line --

6 BY MR. MERCER:

7 Q (interrupting): This was Mrs. Tarzian personally?

8 A She came to line 9 and she said, "I have your proof."
9 I said, "Is she here?" which I was under the impression Sue
10 Crowe would be there.

11 Q Sue Crowe was mentioned at this meeting?

12 A Sue Crowe was mentioned in the meeting.

13 Sue Crowe was fired from R.C.A. within three days after
14 she went there and so I asked her, you know, if she was there
15 and she said, "Yes."

16 Q Now when you asked her if Sue Crowe was there, is this
17 now the day after the meeting?

18 A That was the day after the meeting when she come to
19 our line.

20 She first asked our stock girl to fill in for me. She
21 couldn't because she was busy herself so then the assistant
22 foreman come and she said somebody wants you. I said, "Yes,
23 Mrs. Tarzian does." So she sends Ruth King down to take my
24 place while I go to her office.

25 I go to her office. There's a girl there and she said,

1 "Here's the girl that can tell you." And she turns me over
2 to this girl and all this girl succeeded in telling me was
3 that some woman was supposedly working at R.C.A. and had been
4 absent from work because of illness of her child and then at
5 the time I --

6 Q (interrupting): Just what happened?

7 Now, did Mrs. Tarzian tell you who this woman was, this
8 girl?

9 A No, sir. She didn't tell me who she was.

10 Q Was it Sue Crowe?

11 A No, sir, it wasn't Sue Crowe.

12 Q Did Mrs. Tarzian say anything else to you at this time?

13 A Yes, sir. She dismissed the girl. She asked me if I
14 knew that one of their men, Mr. McHenry, was home, had been
15 fired at. I told her I read it in the paper. And at that
16 time I told her I would make no accusation unless I was able
17 to back it up but she did not accuse the Union of doing it.

18 Q When you say fired at, do you mean?

19 A With a gun, fired at.

20 Q Were you here when Sandra Laven testified?

21 A Yes, sir.

22 Q Was she discharged the same day you were?

23 A Yes, sir.

24 Q Do you know Betty McLaughlin out there?

25 A Yes, sir.

1 Q Where did you first know her, where was she working?

2 A Line 9.

3 Q What job was that?

4 A Well I don't know just exactly what Betty's job
5 consisted of.

6 You see, I was on rivet base and she was further on up
7 the line on finish.

8 Q After you were transferred from line 9 you were
9 transferred to stick winding?

10 A Yes, sir.

11 Q Was she transferred?

12 A Yes, sir.

13 Q While you were still there was she still working on
14 stick winding?

15 A No, sir.

16 Q Do you know where she went back to work?

17 A She was back on line 9.

18 Q Did she ever tell you how she got back over there?

19 MR. HILL: Objection. It calls for hearsay.

20 TRIAL EXAMINER: Sustained.

21 MR. MERCER: Did anyone ever tell you how she got back
22 over there?

23 MR. HILL: Objection. The same objection. It calls
24 for a conclusion.

25 TRIAL EXAMINER: Anyone. You may answer yes or no.

1 BY MR. MERCER:

2 Q Did anyone ever tell you how she got back over there?

3 A She did.

4 Q Did anyone ever tell you besides her?

5 A No, sir.

6 MR. MERCER: I think it is material what this woman
7 she worked with told her about this.

8 I think it is purely within the knowledge of the company
9 how the woman did get back and this woman like any other
10 employee sees a woman transferred, she saw the fact that she
11 went to work at the other place. I think she can recite what
12 she was told.

13 TRIAL EXAMINER: No. Objection sustained.

14 BY MR. MERCER:

15 Q When Mr. Tarzian spoke to you that first time that
16 you told us about when you spoke up in the question period,
17 were you still on line 9 then?

18 A When I was talking to Mr. Tarzian, yes, sir.

19 Q That was on the rivet base job?

20 A Yes, sir.

21 Q Did you see Betty McLaughlin back over in the line 9
22 area after she had been in stick winding?

23 A No, sir.

24 Q Was she in stick winding any more?

25 A No, sir.

1 Q : Did you see her around the plant after that?

2 A : No, sir.

3 Q Since the time of your discharge have you been recalled
4 by the company?

5 A No, sir.

6 MR. MERCER: I will pass the witness and I have some
7 statements here I will be glad to tender.

8 TRIAL EXAMINER: Have you ever been back to the plant
9 since then?

10 THE WITNESS: No, sir.

11 MR. MERCER: I have an omitted question if I might, sir.

12 TRIAL EXAMINER: Go ahead.

13 BY MR. MERCER:

14 Q Mrs. Bennett, did you drive to work?

15 A My husband did. He took me to work.

16 Q Before the election did he take you to work?

17 A Yes, sir.

18 Q What kind of a car did he have?

19 A He's got a forty eight Plymouth Station Wagon.

20 Q Did he have any signs on that?

21 A Yes, sir.

22 Q What kind of signs did he have?

23 A IBEW, Vote IBEW.

24 Q How many signs did he have?

25 A Well he had one on both sides and one in the back, one

1 on the window and one on the front end of the car, the grille
2 part.

3 Q Did anyone ride to work with you besides you?

4 A Yes, sir, we had two or three riders.

5 Q They worked there?

6 A Yes.

7 Q Does your husband work there?

8 A No, sir.

9 MR. MERCER: I will pass the witness.

10 CROSS-EXAMINATION

11 BY MR. HILL:

12 Q Mrs. Bennett, I believe you testified the rate was 29
13 trays a day?

14 A Yes, sir.

15 Q Is that in high channel?

16 A Yes, sir.

17 Q Is that the same channel that Sandy Laven worked on?

18 A Well I don't know what Sandy's channel was.

19 Q What was the highest number of trays that you ever had
20 a day?

21 A The average number, the highest I remember was about 16.

22 Q The highest was 16?

23 A Yes, sir.

24 Q How many times did you make 16?

25 A Just once is all.

P R O C E E D I N G S

TRIAL EXAMINER LONDON: The proceeding will be in order.

ANNA BRANAM

a witness called by and on behalf of the General Counsel,
being first duly sworn, was examined and testified as follows:

TRIAL EXAMINER: Give us your full name and address
and speak up loud.

THE WITNESS: Anna Branam, 3211 Kingsley Drive,
Bloomington.

DIRECT EXAMINATION

BY MR. MERCER:

Q Mrs. Branam, are you employed at Sarkes Tarzian?

A Yes.

Q What is your job out there?

A Quality control.

Q What do you do in quality control?

A I'm an inspector. I've been a group leader also.

Q Mrs. Branam, were you working out there in 1966,
before the election?

A Yes.

Q Were you a member of the IBEW organizing committee?

A Yes.

Q Can you tell us when you became a member of the
organizing committee?

A It was around the last of April.

1 Q I hand you what is in evidence as General Counsel
2 Number 25 and ask you if you wore one of those buttons?

3 A Yes.

4 Q Did you wear it to work?

5 A Yes.

6 Q Were you informed in 1966 about the new rule regarding
7 going to the rest room?

8 A I was told by one of the girls on the line.

9 Q When did that happen that you were told that?

10 A Oh, it was the fourteenth of April.

11 Q But the foreman himself did not tell you?

12 A They never told me any rules, the foreman hasn't.

13 Q That same evening did you have occasion to visit the
14 rest room while at your work?

15 A Yes, I did.

16 Q How far is the rest room from your working station?

17 A Well at that time I would say it was about 50 foot
18 or so.

19 Q Did you notice anything when you went to the rest room?

20 A Yes.

21 Q What did you notice?

22 A I seen the foreman Bill Payne and Grace Porter,
23 assistant foreman, sitting on the line directly in front of
24 the rest room. They had a pad of paper and a pencil and
25 each time a girl would go in and out they would write

1 something on this paper.

2 Q Now when you personally went did you notice anything?

3 A Yes.

4 Q What did you notice?

5 A Grace Porter following me in the rest room.

6 Q Did she actually go into the rest room?

7 A Yes.

8 Q Was she still there when you left?

9 A Yes.

10 Q Do you know Tom Beech?

11 A Yes.

12 Q Did you work on nights?

13 A Yes, I did.

14 Q And did you know Reva Robertson?

15 A Yes, I was her group leader for a while.

16 Q Now before the 1966 election did you work with Reva?

17 A Yes.

18 Q Now you were an inspector before the election?

19 A Yes, I was.

20 Q Did you see Tom Beech wearing an IBEW button out at
21 the plant?

22 A Yes, I did.

23 Q Did you hear from anyone about a rule changing the
24 maintenance duties?

25 A Yes I heard someone on the line say there had been.

1 Q Was that a foreman or just another employee?

2 A Just another employee.

3 MR. MERCER: What I say now, Mr. Trial Examiner, is
4 preliminary. I am not trying to prove the rule through this
5 woman.

6 What did you understand the change to be?

7 THE WITNESS: That the maintenance had to be on their
8 feet at all times.

9 MR. HILL: We move to strike that, Mr. Trial Examiner.

10 Regardless of the fact of Mr. Mercer's explanation
11 of this it calls for hearsay testimony and her conclusion
12 as to what she understood the rule to be.

13 MR. MERCER: Well, Mr. Trial Examiner, we have already
14 adduced evidence here as to rule change through Mr. Beech,
15 what he was told by his foreman.

16 I again state and take the position now on the record
17 I am not going to rely on this woman's testimony as to what
18 the rule was. I want her understanding of it as a preliminary
19 matter in preparation for my next question. That is all.
20 I am not trying to prove the rule through her.

21 MR. HILL: Mr. Trial Examiner, if I may be heard.

22 First of all, if he is not trying to prove what the
23 rule was this would be irrelevant matter.

24 Second of all, regardless of the purpose of this, her
25 understanding of what the rule was is her conclusion and is

1 incompetent testimony regardless of its purpose.

2 MR. MERCER: I don't think it is, Mr. Trial Examiner.

3 MR. HILL: I move to strike it.

4 TRIAL EXAMINER: State your question again.

5 MR. MERCER: All right.

6 What were you told this new rule change was?

7 MR. HILL: Objection.

8 TRIAL EXAMINER: Yes. I will defer ruling on your
9 motion until I hear what develops here and I may strike
10 the whole thing.

11 THE WITNESS: That maintenance had to be on their
12 feet at all times.

13 MR. HILL: We move to strike that. This is what she
14 heard. Therefore, obvious hearsay.

15 It has not been identified from whom she heard it or
16 anything else. It has not been identified when it took place
17 or the time and it stands as hearsay evidence.

18 TRIAL EXAMINER: Is this as far as you are going on
19 this particular point?

20 MR. MERCER: No.

21 TRIAL EXAMINER: Go ahead.

22 I am still withholding my ruling.

23 BY MR. MERCER:

24 Q Mrs. Branam, had you ever been aware of a rule like
25 this prior to this time?

1 A Shortly after I went there in 1963.

2 Q Now when was it you first heard about this, that you
3 first received information about this change?

4 A It was around April 14.

5 Q Were you or were you not aware that Tom Beech eventually
6 left the employment of the company?

7 A Yes.

8 Q You were aware of that?

9 A Yes.

10 Q After Mr. Beech left the employment of the company,
11 did you observe any maintenance men?

12 A Yes.

13 Q Did they stay on their feet at all times?

14 A Not at all times, no.

15 Q After this did you ever see any of them sit and talk
16 to the girls on the line?

17 A Yes.

18 MR. HILL: May we have when and where.

19 MR. MERCER: Yes.

20 BY MR. MERCER:

21 Q Can you recall when this occurred?

22 A Just about every night.

23 Q Where would you see this?

24 A In their position wherever they was working.

25 Q Were you stationary, Mrs. Branam, or were you moved

1 around?

2 A I moved around.

3 Q Do you rotate on line 7 inspection?

4 A I have all the lines.

5 Q How many lines do you have?

6 A Right now I have two.

7 Q Do you know Mr. Will Parish?

8 A Yes, I do. He's my foreman.

9 Q In which department does he work?

10 A He's in quality.

11 Q Did you ever have a conversation with Mr. Parish

12 about being followed?

13 A Yes, I did.

14 Q Can you tell us when that was?

15 A That was April the eighteenth.

16 Q Where were you when you talked to Mr. Parish?

17 A In his office.

18 Q Was anyone else present at that time?

19 A No, they weren't.

20 Q Will you tell us what you said to Mr. Parish and

21 what he said to you?

22 A I told him I couldn't continue to work any longer
23 under the pressure I was under and he wanted to know what it
24 was and I said, "I'm being followed and watched at all times."
25 And he said, "Do you have any idea why this is being done?"

1 And I said, "Well, it's because I attended Union meetings.
2 I'm not going to lie to you. I never have." And he said,
3 "What you do after 12:30 is strictly your own business."

4 Q Was anything else said during this occasion?

5 A No.

6 Q After this conversation you had with Mr. Parish were
7 you followed any more?

8 A Not for a few nights.

9 Q After that time were you followed again?

10 A Yes.

11 Q Who followed you?

12 A Grace Porter and once Maxine Chapman.

13 Q Where would they follow you?

14 A To the rest room.

15 Q Since the National Labor Relations Board election
16 out there in 1966 have you been followed?

17 A Yes.

18 Q Are you still being followed?

19 A Up until about a week ago.

20 Q Now do you recall when Reva Robertson when she left
21 the employment of the company?

22 A Yes.

23 Q Immediately after she left who, if anyone, worked
24 in her place?

25 A Rita Clemmons.

1 Q Do you know who did the quality work in the back room?

2 A Twila Robbins.

3 Q Is Rita Clemmons still working on that job?

4 A She is right now but she has given notice she is
5 leaving.

6 Q Now since the time Reva Robertson left has anyone
7 besides Rita Clemmons worked in the position that Reva
8 Robertson had?

9 A Yes.

10 Q Who?

11 A Jeanette Lockhart.

12 Q Is she still there?

13 A No.

14 Q Do you know where Jeanette Lockhart was working at
15 the time Reva Robertson left?

16 A She was on a machine.

17 Q What kind of a machine?

18 A Coil winding machine.

19 Q Was she performing quality control work?

20 A No.

21 Q Do you know this woman personally?

22 A Jeanette?

23 Q Yes.

24 A Yes.

25 Q Do you know when she started working for the company?

1 Approximately.

2 A I believe it was back in March.

3 Q Of 1966?

4 A Yes.

5 Q I showed you that IBEW organizing badge, General
6 Counsel's exhibit, and you identified it. I am not sure
7 that I got this answer in the record. When did you begin
8 wearing that to work?

9 A Around the last of April.

10 Q How long did you continue to wear it to work?

11 A Until after the election.

12 Q Where would you wear it?

13 A On my dress.

14 Q On your blouse or your dress?

15 A (Nods head to signify affirmative)

16 MR. MERCER: I will pass the witness and I do have
17 a statement.

18 TRIAL EXAMINER: With respect to your motion to strike,
19 I think the motion will be denied and the testimony received
20 for the limited purpose indicated by counsel.

21 MR. HILL: All right, sir.

22 TRIAL EXAMINER: Off the record.

23 (A short recess was taken.)

24 TRIAL EXAMINER: Back on the record.

25 You may proceed.

CROSS-EXAMINATION

1

2 BY MR. HILL:

3

Q Mrs. Branam, you testified that when you talked with
4 Mr. Parish in his office you told him you were being followed
5 I didn't catch the date on that.

6

A It was the eighteenth of April.

7

Q And I believe he told you that what you do after
8 12:30 is your own business?

9

A That's right.

10

Q Was Mr. Parish your supervisor at that time?

11

A Yes, he was.

12

Q Did he tell you who was following you?

13

A Yes.

14

Q Who did you say?

15

A Grace Porter.

16

Q Mrs. Branam, have you ever made a statement under oath?

17

A No.

18

Q You never have?

19

A No.

20

Q Do you recall giving a statement to Virgil Trick for
21 the NLRB, Field Examiner?

22

A Yes I have to them. I thought you meant have I been
23 in court before.

24

Q Oh no. I'm sorry.

25

A I have not been in court.

1 Q Do you recall telling Mr. Trick that referring to
2 Will Parish, "Will then said that is your privilege what you
3 do after 12:30. I told Parish that different ones had been
4 following me but I did not name any of them."?

5 A I talked to him many times about that since April 18.

6 Q Isn't this the conversation you are referring to?

7 A Yes.

8 Q Isn't it true that you did not tell him who was
9 following you?

10 A Yes, I've told him since then, too, who has been
11 following --

12 Q (interrupting): But in this particular conversation
13 when he said, "That's your privilege what you do after 12:30,"
14 isn't it true you did not name any of those?

15 A I named Grace Porter I'm sure.

16 Q So that this statement under oath is a lie, is that
17 right?

18 A I can't say that.

19 MR. MERCER: I object to that.

20 TRIAL EXAMINER: Sustained.

21 THE WITNESS: Did I say something wrong?

22 MR. MERCER: The objection was sustained. Don't
23 answer.

24 BY MR. HILL:

25 Q I will hand you this and ask you to examine that.

1 Is that your initial at the bottom of the page?

2 A Yes, it is.

3 Q Is this your signature here?

4 A Yes, it is.

5 Q Did you give this before Virgil Trick, NLRB Field
6 Examiner?

7 A I gave one to Mike Lucas and him. I'm not sure about
8 that one.

9 Q Calling your attention to paragraph 13 of the
10 statement, wait a minute I've got the wrong paragraph,
11 paragraph 9. I ask you to read paragraph 9.

12 MR. MERCER: To yourself.

13 MR. HILL: Yes, to yourself.

14 BY MR. HILL:

15 Q Did Mr. Trick swear you in when you signed that
16 statement?

17 A Yes, he did.

18 Q Did you tell Mr. Trick that you did not give the name
19 of any of those that were following you to Mr. Parish?

20 A I told him I gave Grace Porter's name.

21 Q Did you read this statement before you signed it?

22 A I read part of it.

23 Q Did you read paragraph 9?

24 A I'm not sure.

25 Q Are you saying that you told Mr. Trick that you gave

1 Mr. Parish Grace Porter's name and he typed it differently
2 and you signed a different statement?

3 A No, I didn't sign no different statement.

4 Q Did you sign this statement?

5 A Yes, I did.

6 Q Does this statement say that you told Parish different
7 ones but I did not name any of them?

8 A No, it's not in there.

9 Q I call your attention to paragraph 9 again.

10 Did you sign this statement?

11 A Yes, I did.

12 Q Under oath?

13 A Yes.

14 Q And it says you "did not name any of the persons
15 following you to Will Parish," isn't that right?

16 A I wouldn't for sure. I named a girl at that time
17 but --

18 Q (interrupting): I am talking about this conversation
19 in Mr. Parish's office.

20 A I'm sure I told him at the time she was following me.

21 Q But you signed this statement.

22 MR. MERCER: Oh, Mr. Trial Examiner, I think he has
23 made his point. I think we are now belaboring an argument
24 with the witness.

25 MR. HILL: I am trying to clear up a problem. I

1 don't think it is clear at this time.

2 MR. MERCER: I think he is trying to do anything but
3 clear up the problem.

4 MR. HILL: She stated she read the statement. She
5 stated that two things, now, that she told Mr. Trick that
6 Gracie Porter was following and she stated that she read
7 the statement and she signed the statement.

8 I want to know which is true, your statement under
9 there
oath/or your statement under oath here.

10 MR. MERCER: All right, Mr. Trial Examiner.

11 TRIAL EXAMINER: You may proceed.

12 She may answer.

13 THE WITNESS: I'm not sure.

14 BY MR. HILL:

15 Q You don't know whether your testimony here today was
16 true or whether this is true?

17 A I told him many times.

18 Q I am talking about this conversation. I don't want to
19 belabor the point.

20 I am talking about the conversation in Mr. Parish's
21 office where he said you could do what you wanted to do
22 after 12:30.

23 A I'm not sure about it because I told him many times.

24 Q In other words, you don't know whether this was true
25 or not when you signed it under oath?

1 A It probably was.

2 Q And your testimony today is not true?

3 TRIAL EXAMINER: Well I think you have covered the
4 point pretty well.

5 BY MR. HILL:

6 Q Mrs. Branam, to refresh your recollection do you
7 recall the date of the election in 1966?

8 A May 12.

9 Q Do you recall on May thirteenth or fourteenth having
10 been told by Bill Payne that as long as you and Reva do
11 your work well I don't care if you both wear a Union button
12 on the end of your nose?

13 A Yes.

14 MR. MERCER: Objection. It is clearly outside the
15 scope of direct.

16 MR. HILL: Well, Mr. Trial Examiner, she testified
17 concerning a number of conversations. I think this is just
18 another conversation in a series.

19 MR. MERCER: Wait a minute. I did not ask her, Mr.
20 Trial Examiner, about every conversation.

21 TRIAL EXAMINER: She may answer.

22 BY MR. HILL:

23 Q Do you recall that?

24 A Yes.

25 Q Did Mr. Payne tell you that on May thirteenth or

1 fourteenth?

2 A On the fourteenth I believe.

3 Q Who is Maxine Chamness?

4 A She was maintenance at that time.

5 Q Is she a supervisor, do you know?

6 A Is she a supervisor?

7 Q Is she a supervisor?

8 A No. She worked the same job Tom Beech worked.

9 MR. HILL: That is all.

10 REDIRECT EXAMINATION

11 BY MR. MERCER:

12 Q Mrs. Branam, you have already testified Mr. Parish was
13 your foreman and Mr. Hill asked you a number of questions
14 about that.

15 What was your relationship with Bill Payne during this
16 time before the election, was he over you or related to you
17 in any way?

18 A No.

19 Q Did he ever become your supervisor?

20 A Since the election he has.

21 Q Did Mr. Parish work on nights?

22 A No. He was a day foreman and he would carry on and
23 check on us before he left.

24 Q Do you recall at this time, right now, do you recall
25 whether you did or did not mention Grace Porter in this

1 A Yes, he did. He come right into the plant at night.

2 Q Can you tell us did Mr. Parish talk to you?

3 A Yes, he did.

4 Q Can you tell us about when that was?

5 A It's been since the election. I don't remember the
6 exact date.

7 Q Where was this that you talked to him?

8 A On the line.

9 Q On the line?

10 A Yes.

11 Q Did Mr. Parish ever tell you or tell Reva Robertson
12 in your presence or tell either one of you when you were
13 around why they were doing this?

14 A No.

15 Q On this night you just mentioned he came out on the
16 line, did he tell you that night why they were doing it?

17 A No.

18 MR. MERCER: I will pass the witness.

19 CROSS-EXAMINATION

20 BY MR. HILL:

21 Q Mrs. Branam, did Mr. Parish ever tell you that people
22 were following you?

23 A No, he did not.

24 Q That is something you told him?

25 A I told him.

1 Q On each instance when you talked with him except
2 for the April 14 instance, that was after the election?

3 A Yes, it was.

4 Q Now you say you are not sure whether you told him
5 about Grace Porter following you on the fourteenth but you
6 were sure when you gave this affidavit because this affidavit
7 relates the incident on the fourteenth?

8 A I'm not sure.

9 MR. MERCER: I will object. Really, I think he has
10 made his point about ten times.

11 TRIAL EXAMINER: Sustained.

12 BY MR. HILL:

13 Q Now did you say that Bill Payne became your supervisor
14 following the election?

15 A Yes.

16 Q When was the date of the election?

17 A May 12.

18 Q How did you learn of Bill Payne becoming your foreman?

19 A Will Parish and Beulah Case came out on the line and
20 told me and Rita Clemmons and Reva Robertson.

21 Q Have you ever made a statement under oath, Mrs.
22 Branam, that on Thursday, April twenty first, 1966 about
23 4:15 p.m. Will Parish, quality control foreman, Beulah
24 Casey, assistant foreman, quality control, Bill Payne and
25 Grace Porter, they all came to the north end of the stick

1 winding line, Reva Robertson, Rita Clemmons and myself were
2 the only other ones around, Will said quote From now on
3 Bill (Payne) will be over you. He will be held responsible
4 for quality control on nights. You are still to report to
5 me.

6 Have you ever made that statement?

7 A I'm not sure about that date.

8 Q The question is: Have you ever made such a statement
9 under oath?

10 A Yes, I have.

11 Q You have?

12 A But I'm not sure about the date.

13 Q But you have made such a statement under oath?

14 A Yes, I did.

15 REDIRECT EXAMINATION

16 BY MR. MERCER:

17 Q Mrs. Branam, Mr. Hill just talked to you if Mr.
18 Parish ever admitted to you that you were being followed?

19 MR. HILL: That was not the question.

20 MR. MERCER: I'm sorry, sir.

21 Did I misquote the testimony? What was the question?

22 MR. HILL: The question was did Mr. Parish ever
23 tell you you were being followed.

24 BY MR. MERCER:

25 Q All right. Did Mr. Parish ever tell you you were

1 being followed?

2 A No, he didn't.

3 Q Did he ever deny it to you?

4 A No.

5 Q Did Mr. Payne or anyone else ever come to you and say
6 you were having hallucinations and you were not being
7 followed?

8 A No.

9 MR. MERCER: I pass the witness.

10 MR. HILL: No further questions.

11 TRIAL EXAMINER: That is all. You may step down.

12 Thank you.

(Witness excused)

13
14 HELEN LA SHURE

15 a witness called by and on behalf of the General Counsel,
16 being first duly sworn, was examined and testified as follows:

17 TRIAL EXAMINER: Give us your full name and address.

18 THE WITNESS: Helen La Shure.

19 DIRECT EXAMINATION

20 BY MR. MERCER:

21 Q Would you give us your address?

22 A 374 Popular Drive, Ellettsville.

23 Q Mrs. La Shure, are you employed at Sarkes Tarzian?

24 A Yes, I am.

25 Q What is your job out there?

1 A Coil winder.

2 Q Did you ever go on medical leave?

3 A Yes, I did.

4 Q Can you tell us when that was?

5 A That was December twenty third or twenty fourth.

6 Q Of what year?

7 A Of 1965.

8 Q How long were you on medical leave?

9 A From December 24, 23 or 24 to March 16.

10 Q What type of medical problem did you have?

11 A I had surgery.

12 Q Who did you report back to you when you went back to
13 work?

14 A To Della Haynes.

15 Q The nurse?

16 A The nurse.

17 Q What shift had you worked on before you went on
18 medical leave?

19 A I worked on the day shift, the first shift.

20 Q Did you have a conversation with Mrs. Haynes about
21 what shift you work on?

22 A Yes. I asked her to go on night shift.

23 Q What did she tell you in response to that?

24 A She said I don't recall it but Mr. Polley or Mr.

25 Hamich did, Mr. Polley or Mr. Hamich would talk to them and

1 she came back and said it was okay to go.

2 Q On nights?

3 A On the night shift.

4 Q Did you go on the night shift then?

5 A Yes, I did.

6 Q What was your job on days before you went on medical
7 leave?

8 A I was a tuner tester.

9 Q What was your job on nights after you came back from
10 medical leave?

11 A I was stick winder, coil winder.

12 Q Is there any difference in pay in those two jobs?

13 A Well if there is I never got it.

14 Q As far as you know there isn't?

15 A No.

16 Q Did you have the same foreman on both jobs?

17 A No, I didn't.

18 Q You were in the same department?

19 A No, it wasn't.

20 Q Were you in the same plant?

21 A I was in the same plant.

22 Q Now after you came back on nights, do you know Tom
23 Beech?

24 A Yes, I did.

25 Q Did you ever see him wear a Union button?

1 A Yes, I did.

2 Q When you were working on nights did you ever see anybody
3 out there that had a Union button on on any employee before
4 Tom Beech?

5 A No. Tom was the first.

6 MR. MERCER: I will pass the witness. I do have a
7 statement.

8 Let me ask the witness about this.

9 Did you give a statement to Michael Lucas?

10 THE WITNESS: Yes, I did.

11 TRIAL EXAMINER: Off the record.

12 (A short recess was taken.)

13 TRIAL EXAMINER: On the record. You may proceed.

14 CROSS-EXAMINATION

15 BY MR. HILL:

16 Q Miss La Shure, your medical leave began December
17 twenty third or twenty fourth, 1965?

18 A Yes, it did.

19 Q For surgery?

20 A Yes.

21 Q Did you request to be placed on medical leave?

22 A Well, the twenty third or the twenty fourth whichever
23 the day was that we went on Christmas vacation, I got sick
24 and I didn't return to work after Christmas vacation, I
25 sent in the leave.

1 Q Did you send in a request for leave?

2 A Yes.

3 Q By mail?

4 A No. I sent it in with my sister.

5 Q What is your pattern do you know?

6 A I don't know.

7 Q Would you know the term classification, what is
8 your classification?

9 A I'm classified as coil winder.

10 Q You are?

11 A Now. I don't know before that if I was classified as
12 anything else or not.

13 Q Is this a crimp and solder classification?

14 A Yes.

15 Q So your classification is crimp and solder but your
16 job you are working on is coil winding?

17 A Yes.

18 Q Which is a crimp and solder job or do you know?

19 A Well, actually I don't do any crimping and soldering.
20 The machine does it itself.

21 MR. HILL: I think that is all.

22 MR. MERCER: I have a question.

23 REDIRECT EXAMINATION

24 BY MR. MERCER:

25 Q Mrs. LaShure, I'm sorry but I forgot now what was the

1 job you worked on before you transferred?

2 A Before I transferred from days to nights?

3 Q Yes. Before you went on medical leave.

4 A I was a tuner tester.

5 Q Is that a crimp and solder classification?

6 A No it isn't.

7 MR. MERCER: I have no further questions.

8 MR. HILL: Nothing further.

9 TRIAL EXAMINER: That is all. You may step down.

10 Thank you.

11 (Witness excused)

12 KAREN WHITE

13 a witness called by and on behalf of the General Counsel,
14 being first duly sworn, was examined and testified as follows:

15 TRIAL EXAMINER: Give us your full name and address.

16 THE WITNESS: Karen White, Route 3, Spencer.

17 DIRECT EXAMINATION

18 BY MR. MERCER:

19 Q Spencer, Indiana?

20 A Yes.

21 Q Is it Miss White or Mrs. White?

22 A Mrs.

23 Q Mrs. White, where do you work?

24 A I stay home and I babysit.

25 Q Did you ever work at Sarkes Tarzian?

1 A Yes, I did.

2 Q What was your job out there?

3 A Stick winder.

4 Q Did you work out there before the election?

5 A Yes, I did.

6 TRIAL EXAMINER: Sixty six?

7 BY MR. MERCER:

8 Q The sixty six election?

9 A Yes.

10 Q Did you ever work with Bobby Bennett?

11 A Yes, I did.

12 Q What was she working on when you first worked with
13 her?

14 A We were working in rivet base on line 9.

15 Q Were you transferred after that?

16 A Yes, I was.

17 TRIAL EXAMINER: Speak up louder please.

18 BY MR. MERCER:

19 Q What job were you transferred to?

20 A Stick winding.

21 Q Do you know if she was also transferred to stick
22 winding?

23 A Yes, she was.

24 Q Did you know a girl named Betty McLaughlin?

25 A Yes, I did.

1 Q Did she work on the rivet base job originally?

2 A No, she didn't. She worked on the other side of
3 line 9.

4 Q What did she do on the other side of line 9?

5 A Worked on stator bars.

6 Q Now when you were transferred to the stick winding
7 job, was Betty McLaughlin transferred?

8 A Yes, she was.

9 Q Do you know if she was transferred back to line 9?

10 A Yes, she was.

11 Q Were you still working in coil winding when she was
12 transferred?

13 A Yes.

14 Q How about Bobby Bennett, was she still working in
15 coil winding?

16 A Yes.

17 Q Do you know Betty McLaughlin personally?

18 A No, I don't.

19 Q Did you see her back on line 9?

20 A Yes.

21 Q Was she working there when you started to work there?

22 A Yes, she was.

23 Q When did you start?

24 A February 14.

25 Q Of this year?

1 A Yes.

2 Q Of 1966?

3 A Yes.

4 MR. MERCER: I will pass Mrs. White.

5 MR. HILL: Do you have a statement?

6 MR. MERCER: I've got one.

7 TRIAL EXAMINER: Off the record.

8 (A short recess was taken.)

9 TRIAL EXAMINER: The proceeding will be in order.

10 You may proceed, Mr. Hill.

11 CROSS-EXAMINATION

12 BY MR. HILL:

13 Q Mrs. White, you testified that you were transferred
14 from line 9 to stick winding?

15 A Yes, sir.

16 Q Do you recall when that transfer was?

17 A No, I don't.

18 Q Do you recall approximately when?

19 A No.

20 Q Was it in the Spring of this year?

21 A Yes, it was.

22 Q Were all of the girls transferred from line 9 who
23 worked there at that time?

24 A The biggest part of them, yes.

25 Q Wasn't the line dissolved?

1 A Yes, it was.

2 Q Do you recall approximately how many girls were working
3 on line 9 at the time it was dissolved?

4 A About 30.

5 Q About 30 girls?

6 A Yes.

7 Q You were one of the girls transferred to stick winding?

8 A Yes, sir.

9 Q So was Bobby Bennett?

10 A Yes.

11 Q You testified you at a later time you saw Betty
12 McLaughlin back on line 9?

13 A Yes.

14 Q Were there other girls working on line 9 at that time?

15 A Yes.

16 Q About how many?

17 A Probably about 30.

18 Q The same number?

19 A Yes.

20 Q Were these different girls than worked on line 9 before?

21 A They were different, yes.

22 Q Do you know whether there had been a transfer of
23 another line at the time line 9 was dissolved to line 9?

24 A Yes.

25 Q What line was that?

1 A Seven.

2 Q Were these line 7 girls on line 9?

3 A Yes.

4 Q So at that time Betty McLaughlin was working on what
5 had formerly been line 7?

6 A No. She was working on line 9.

7 Q But it had been line 7 before the transfer?

8 A Yes.

9 MR. HILL: I think that is all.

10 TRIAL EXAMINER: That is all. You may step down.

11 GOLDIE HENDRICKS

12 a witness called by and on behalf of the General Counsel,
13 being first duly sworn, was examined and testified as follows:

14 TRIAL EXAMINER: Give us your full name and address
15 and speak up loud please.

16 THE WITNESS: Goldie Hendricks, 621 West Fourth Street,
17 this city.

18 DIRECT EXAMINATION

19 BY MR. MERCER:

20 Q Mrs. Hendricks, were you formerly employed at Sarkes
21 Tarzian?

22 A Yes, I was.

23 Q How long had you worked at that company?

24 A Seventeen years and nine months.

25 Q Where are you employed at present?

1 A RCA.

2 Q Were you employed at Sarkes Tarzian at the time of
3 the 1966 NLRB election?

4 A Yes, I was.

5 Q Did you attend any meetings before that election when
6 Mr. Tarzian talked to the employees?

7 A Yes.

8 Q Do you recall one of these meetings with the employees
9 in which Mr. Tarzian talked about what happened when employees
10 if they had difficulties on the job?

11 A Yes, I was.

12 Q When was that meeting in relation to the election?

13 A I don't remember the date. I would say about two
14 weeks before the election.

15 Q Where was that meeting held?

16 A It was held in a small conference room over by the
17 offices.

18 Q A small conference room over by the offices?

19 A Yes.

20 Q About how many people were there?

21 A Well, a rough guess I would say maybe 35 or 40.

22 Q Would you tell us what Mr. Tarzian said on this subject
23 if the people had problems with their jobs?

24 A He said that the company had always tried to be fair
25 with the employees and if they had trouble they'd try to place

1 them in jobs that they could do and so on and so forth.

2 Q What about so on and so forth, what else did he say
3 about this?

4 A Well he had always taken care of it and he didn't need
5 a Union to tell him what to do.

6 Q Now on this subject do you recall did he say anything
7 about what happened if you could not perform a job?

8 A They placed you on a job that you could do.

9 Q Did you make any comment to Mr. Tarzian about this at
10 that meeting, you, yourself, did you say anything to Mr.
11 Tarzian?

12 A Wait a minute. That was the last meeting.

13 Q This meeting we are talking about?

14 A The one you are talking about now was about two days
15 before the election.

16 Q What you just testified about occurred two days before
17 the election?

18 A That was the last meeting.

19 Q Was that held in the conference room?

20 A Yes, the same place.

21 I asked him, I said, "What about Agnes Felty, how
22 come she's laid off then because she couldn't stand soldering?"
23 And he said, "I don't know. Who is Agnes Felty?" I said,
24 "She's an operator and she can't stand the solder fumes."
25 And then he asked me how to spell the name and I told him.

1 He wrote it down. He said he would investigate.

2 Q Do you know Mr. Jennings Polley?

3 A Yes, sir.

4 Q Did you have any conversation with Mr. Jennings
5 Polley about this?

6 A Yes, sir.

7 Q When was this in relation to this meeting when Mr.
8 Tarzian talked?

9 A Well, about as soon as the meeting was over and I
10 went back to the line, well, then, my assistant foreman
11 Margaret Johnson told me they wanted me that Mr. Polley wanted
12 to talk to me.

13 Q Did you go and see Mr. Polley?

14 A I went over in his office.

15 Q Where did you talk to him?

16 A In his office, in the production office.

17 Q Was anybody present besides you and Mr. Polley?

18 A Yes there was. I asked for a witness. I took
19 Cletus Keen, a foreman over us at that time.

20 Q Tell us what Mr. Polley said to you and what you said
21 to Mr. Polley.

22 A He asked me what was bothering me and I said, "Really
23 there wasn't anything but I had just wondered about Agnes.
24 Mr. Tarzian said they try to place them always on jobs they
25 could do." He told me that I didn't know the facts, that

1 Q It wasn't the prayer room either?

2 A No.

3 MR. HILL: That is all.

4 TRIAL EXAMINER: That is all. Thank you.

5 (Witness excused)

6 MICHAEL D. LUCAS

7 a witness called by and on behalf of the General Counsel,
8 being first duly sworn, was examined and testified as follows:

9 TRIAL EXAMINER: Give your name and address please.

10 THE WITNESS: Michael D. Lucas, 1444 Rhode Island
11 Avenue, Northwest, Washington, D. C.

12 DIRECT EXAMINATION

13 BY MR. MERCER:

14 Q By whom are you employed, Mr. Lucas?

15 A The International Brotherhood of Electrical Workers.

16 Q What is your present job with them?

17 A I'm International Representative and Assistant Director
18 of Manufacturing Operations.

19 Q Have you had personal contact with the IBEW organizing
20 drive at Sarkes Tarzian?

21 A Yes.

22 Q When did your first personal contact go back to, what
23 date?

24 A As I recall, April 1962.

25 Q Do you have personal knowledge as to whether that

1 organizing drive is continuous to this date?

2 A Oh, yes it is.

3 Q Can you name for us the international representatives
4 that you know personally that have been working on this
5 from that time to right now?

6 A Well there have been various people assigned into it.

7 MR. HILL: Mr. Trial Examiner, I think we will object
8 to this question as being irrelevant to the issues that are
9 presented by the pleadings in this hearing

10 MR. MERCER: I don't think it is irrelevant.

11 TRIAL EXAMINER: Objection overruled

12 BY MR. MERCER:

13 Q Go ahead, sir.

14 A There's been Mr. H. Dale Mace, Mr. Joseph Ozanic,
15 Mr. Wickliff, Mr. Don Costello, myself, Joseph Maziasz,
16 Mr. Keith McAlilly. And that's about the extent of it.

17 Q Do you know Agnes Felty?

18 A Yes, I do.

19 Q Do you know her personally?

20 A Oh yes, personally.

21 Q Do you know as a matter of personal knowledge that she
22 was on the organizing committee at Sarkes Tarzian?

23 A Yes, I do. I signed her to the organizing committee
24 myself.

25 Q When was that?

1 Q: Name them.

2 A: Well there was John Roberts, Corkie Salee. That is
3 Cornelius Salee, we call him Corkie, and Margie Roberts
4 besides Mrs. Felty.

5 At some of our meetings Mrs. Roberts came in and
6 some of them she didn't. She worked in a different factory
7 than the other people.

8 MR. MERCER: I have no further questions.

9 TRIAL EXAMINER: That is all. Thank you.

10 (Witness excused)

11 MR. MERCER: May I have just a moment, sir.

12 TRIAL EXAMINER: All right.

13 LANA BROWN

14 a witness called by and on behalf of the General Counsel,
15 being first duly sworn, was examined and testified as follows:

16 TRIAL EXAMINER: Give us your full name and address and
17 speak up loud please.

18 THE WITNESS: Lana Brown.

19 DIRECT EXAMINATION

20 BY MR. MERCER:

21 Q Where do you live?

22 A Route 1, Bedford, Indiana.

23 Q Are you employed at Sarkes Tarzian?

24 A Yes.

25 Q Were you working there before the 1966 election?

1 A Yes, sir.

2 Q Do you know Grace Porter?

3 A Yes, I do.

4 Q Who was she?

5 A She was assistant foreman.

6 Q Was she your assistant foreman?

7 A Yes.

8 TRIAL EXAMINER: Speak up louder please.

9 BY MR. MERCER:

10 Q Did Mrs. Porter ever say anything -- speak up as
11 loud as you can -- about people attending Union meetings?

12 A Well, she wasn't talking to me directly. I was sitting
13 at the table.

14 Q Who was she talking to?

15 A She was just talking to, I don't know who all was there
16 but there was just some of us sitting there at the lunch table.

17 Q Was this before the election?

18 A Yes, it was.

19 Q How long before the election?

20 A Well it was about the third Union meeting, it was
21 before the third meeting.

22 TRIAL EXAMINER: How long before the election?

23 BY MR. MERCER:

24 Q The election was as a matter of record was on May 12.
25 How long was it before that?

1 A I'm not for sure.

2 Q Give us your best estimate.

3 A It was about four weeks.

4 MR. HILL: About how many?

5 MR. MERCER: She said about four weeks.

6 BY MR. MERCER:

7 Q What did you say Mrs. Porter said on this occasion?

8 A Well she said that all these girls that was going to
9 the Union meetings they didn't fool her none because she
10 knew everybody that was going.

11 Q You say they didn't fool her none, is that what you
12 said?

13 A Yes, sir.

14 Q Was anything else said at that time that you can
15 recall? Did you say anything or did any of the other girls?

16 A No.

17 Q I am not talking about the other girls now. I am
18 talking about foremen, assistant foremen and people like that.
19 Did anybody ever ask you if you had been attending Union
20 meetings?

21 A No. I think they knew it.

22 MR. MERCER: I will pass the witness.

23 MR. HILL: I move to strike her last conclusion that
24 "I think they knew it."

25 TRIAL EXAMINER: It may be stricken.

1 MR. HILL: Any statement?

2 MR. MERCER: Yes.

3 CROSS-EXAMINATION

4 BY MR. HILL:

5 Q Mrs. Brown, did you say this conversation took place
6 about four weeks before the election?

7 A Yes.

8 Q Where did it take place?

9 A In the lunch room cafeteria.

10 Q You don't know who was there?

11 A No, there was just some of the workers on lunch hour.

12 Q Mrs. Porter wasn't talking to you?

13 A No. I was sitting next to her.

14 Q She wasn't talking to you?

15 A No.

16 Q You don't remember who was there?

17 A No, I don't.

18 Q Is it possible it might have been five or six weeks
19 before the election when this occurred?

20 A It was closer than four I'm sure.

21 Q Did Mrs. Porter say anything else at the time?

22 A Not that I remember.

23 Q This is all she said?

24 A (Nods head to signify affirmative.)

25 Q How long was she sitting there?

1 A Oh, well, she wasn't sitting there very long, about
2 15, 20 minutes.

3 Q This is all she said during that period?

4 A Yes.

5 MR. HILL: I think that is all.

6 TRIAL EXAMINER: That is all. You may step down.

7 Thank you.

8 (Witness excused)

9 MR. MERCER: At this time General Counsel rests.

10 MR. HILL: Shall I go ahead?

11 TRIAL EXAMINER: Yes please.

12 MR. HILL: Howard Trinkle.

13 HOWARD K. TRINKLE

14 a witness called by and on behalf of the Respondent,
15 being first duly sworn, was examined and testified as follows:

16 TRIAL EXAMINER: Give your full name and address.

17 THE WITNESS: Howard K. Trinkle, Post Office Box 20,
18 Stanford, Indiana.

19 DIRECT EXAMINATION

20 BY MR. HILL:

21 Q Mr. Trinkle, where are you employed?

22 A Sarkes Tarzian, Incorporated.

23 Q How long have you been employed by Sarkes Tarzian?

24 A Since June 10 of 1959.

25 Q What is your job there now?

1 A I'm a test foreman.

2 Q How long have you been a test foreman?

3 A Since August of sixty six.

4 TRIAL EXAMINER: Since August sixty six?

5 THE WITNESS: Yes.

6 TRIAL EXAMINER: Last month?

7 THE WITNESS: No. Excuse me. Since vacation of this
8 year.

9 BY MR. HILL:

10 Q When would that be? When was vacation over? Would
11 that have been in July sometime?

12 A It would have been in the middle of July.

13 Q You have been a test foreman since that time?

14 A Yes.

15 Q Prior to vacation what was your job?

16 A I was foreman over stick winding.

17 Q When did you become foreman on stick winding?

18 A In October of sixty five.

19 Q Will you describe for us what the stick winding
20 department consists of?

21 A The stick winding department consists of approximately
22 60 to 70 stick winding machines that individual operators
23 operate.

24 Q What does the stick winding machine do?

25 A Well the stick winding machine is operated by an

1 operator and the operator inserts a coil form into the machine.
2 The machine winds the coil form with a magnet wire and it
3 also solders contacts in the coil form. The coil form
4 recycles to its original position and the machine stops.

5 We have a set of excess windings off the coil form.
6 The coil form is then removed from the winding machine,
7 wire dressed by hand by the operator. The coil form is then
8 placed in a tray.

9 Q Is that the end of the operation for a single coil?

10 A When she takes the coil form from the machine she also
11 inspects it before she places it.

12 Q How long is the coil form?

13 A It's approximately 3, three and a half inches long,
14 a quarter of an inch in diameter.

15 Q Does the operator do anything to the machine after she
16 places the coil form into it?

17 A She pushes manually a start button.

18 Q Does that start the cycle?

19 A Yes, it does.

20 Q Is there any other physical thing which the operator
21 does during the operation, during the one cycle?

22 A Well, in preparation for the machine to cycle the
23 operator will prepare a coil form to insert in the machine by
24 dipping the coil form in a flux solution.

25 Q You mentioned the operator also wire dressed the form

1 at the end of the cycle. What does that consist of?

2 A Well, in stick as we call it there's four sections of
3 windings, on one end of it is stick. Now the machine winds
4 a complete winding from start to finish, from one end to the
5 other and to divide this into four sections the excess winding
6 has to be removed between the four sections and this is done
7 by hand.

8 Q How does she do it, cut?

9 A Yes. The machine cuts it. She has a pick. She just
10 picks it loose and pulls it off.

11 Q When you say stick is that the same as the coil?

12 A Yes.

13 Q Do you know Bobby Bennett?

14 A Yes, I do.

15 Q Did she ever work under your supervision?

16 A Yes, she did.

17 Q When did she begin to work under your supervision?

18 A To the best of my recollection it was the last part
19 of May.

20 Q Of this year?

21 A Yes. Sixty six.

22 Q Was she transferred from another line, do you know?

23 A Yes, she was.

24 Q What line was that?

25 A Production line 9.

1 Q What happened to line 9 to occasion the transfer?

2 A To the best of my knowledge, I am not familiar with
3 production --

4 MR. MERCER: I object then if he does not know.

5 MR. HILL: I will withdraw the question.

6 BY MR. HILL:

7 Q Was Bobby Bennett assigned to a machine in your
8 department?

9 A Yes, she was.

10 Q What type of machine?

11 A She was assigned to a high channel winding machine.

12 Q Coil winding machine?

13 A Yes.

14 Q Such as you have just described?

15 A Yes.

16 Q Do you have several types of channel? You mentioned
17 high channel

18 A Yes.

19 Q What other channels do you have?

20 A Well, there are 13 channels in a television set.

21 One through six are low channels. Seven through thirteen
22 are high channels. The low channel being the slower of the
23 two machines.

24 Q Did you receive any other new girls on the date that
25 Bobby Bennett transferred in?

1 A Yes, I did.

2 Q Approximately how many?

3 A Twelve.

4 Q Do you recall the day that they were assigned to you,
5 I mean, do you recall that day?

6 A Yes, I do.

7 Q Did you talk to the girls at that time?

8 A Yes, I did.

9 Q Where was that?

10 A It was at my desk.

11 Q Were all the girls together at one time?

12 A No, sir.

13 Q Individually?

14 A Yes, sir.

15 Q Did you talk to all of them that day?

16 A Yes, sir.

17 Q Did you say approximately the same thing to each of
18 the girls do you recall?

19 A I tried to keep the explanation instruction basically
20 the same.

21 Q Do I understand you were giving instructions?

22 A Yes.

23 Q What did you say, Mr. Trinkle, on that day generally
24 to all the girls?

25 A Myself and my assistant foreman tried to explain to
each person what was expected of them and how much time would

1 be given.

2 Q What do you mean how much time would be given?

3 MR. MERCER: I don't want to be over technical but
4 that is not responsive, really, that is a summary.

5 Why don't you ask him what he told them, actually
6 told them, not what he tried to do.

7 MR. HILL: I think I can get at it another way.

8 Is there a normal trial period for new operators in
9 your department?

10 THE WITNESS: Yes, there is a period which consists
11 of two weeks.

12 MR. HILL: Is that the normal period?

13 THE WITNESS: Yes.

14 TRIAL EXAMINER: A few weeks?

15 THE WITNESS: Two.

16 BY MR. HILL:

17 Q Did you talk with Bobby Bennett on that day?

18 A Yes, I did.

19 Q What did you say? Who else was present at the time?

20 A My assistant foreman.

21 Q What is her name?

22 A Kay Moore.

23 Q Was anyone else present?

24 A We were training a new assistant foreman at the time
25 and she was present, Margie Fidler.

1 Q Would you tell us what you said to Bobby Bennett and
2 what anybody else said, if anything?

3 A First of all, nobody said anything to her but me.

4 Q Go ahead.

5 A I told her that we expected her to reach her rate in
6 two weeks and that if I felt she had showed enough improvement
7 in the two weeks that she would be given the extra week.

8 You see, we started out, we showed her the coil form,
9 what it was, what we did to it and what the operator should
10 look for in defects and damaged material and I explained who
11 the people were that she would be working with, the assistant
12 foreman and myself and her group leader, and that we expected
13 her to ask questions and that if there were any help needed
14 we wanted her to ask them.

15 Q Is this substantially the same thing you said to the
16 other operators?

17 A Yes.

18 Q Did you say anything to Bobby Bennett that you did not
19 say to the other operators that day?

20 A No.

21 Q What is the expected rate on a high channel machine?

22 A The rate on a high channel machine is 29 trays per day.
23 Fifty coil forms in a tray.

24 MR. DONNENFELD: What was the last part?

25 MR. HILL: Fifty coil forms in a tray.

1 BY MR. HILL:

2 Q Did you tell Bobby Bennett that day what the expected
3 rate was?

4 A Yes. We told all of them.

5 Q You told all the girls?

6 A Yes.

7 Q Did you have a group leader then under whom Bobby
8 Bennett worked?

9 A Yes, I did.

10 Q What was her name?

11 A Evelyn Bault.

12 Q Do you know whether Evelyn Bault gave any instructions
13 to Bobby Bennett that day?

14 A Yes, I do know.

15 Q What instructions were given?

16 MR. MERCER: I object unless it shows this man was
17 present.

18 BY MR. HILL:

19 Q Were you present at the time the instructions were
20 given?

21 A I was in the area.

22 Q Were you actually present and overheard what was said?

23 A No I could not hear.

24 Q Did you see Evelyn Bault talking with Bobby Bennett
25 that day?

1 A Yes.

2 Q Do you have any estimate as to how long Evelyn Bault
3 talked to Bobby Bennett that day?

4 A No. It would be just a guess.

5 Q What would be your best guess or your best estimate?

6 A Well, I would have to say she divided 8 hours among
7 the 12 people.

8 Q She divided the 8 hours work among the 12 people?

9 A (Nods head to signify affirmative.)

10 Q The new people?

11 A Yes.

12 Q Did she talk to Bobby Bennett more than once that day?
13 If you recall.

14 A I don't recall.

15 Q Did you have an occasion following the time that
16 Bobby Bennett started to talk with her about her work?

17 A Yes.

18 Q Do you recall when that was?

19 A This was when she came over.

20 Q I hand you what has been received in evidence as
21 General Counsel's Exhibit Number 16 and ask you if you
22 recognize that?

23 A Yes, I do.

24 Q Is this a copy of a document of the company?

25 A Yes.

1 Q Until when?

2 A Until six thirteen.

3 Q This year?

4 A Yes.

5 Q Would you keep any records of the rates attained
6 by the new girls?

7 A Yes, I did. I kept a daily record of production and
8 it was turned in to me by the group leader, the group leader
9 had picked up from each individual operator.

10 Q Was this kept with regard to all the girls or with
11 regard to any particular group of girls?

12 A Just the new people.

13 Q Was it kept with regard to the 12 new girls that came
14 in at the time Bobby Bennett came in?

15 A Yes.

16 Q What did you do with the records that were kept?

17 A Well I kept the record until the training period was
18 over and if I felt that the person performed satisfactorily
19 I destroyed the record instantly. It was my own personal
20 record. I destroyed the record. But if we would have to
21 take action, well, then I kept the paper.

22 Q Did you keep the record of Bobby Bennett?

23 A Yes, I did.

24 Q I hand you what has been marked for identification as
25 Respondent's Exhibit 2 and ask you to examine it.

1 Do you recognize that?

2 A Yes, I do.

3 (The document above referred to
4 was marked Respondent's Exhibit
No. 2 for identification.)

5 BY MR. HILL:

6 Q Is that a copy of a document?

7 A Yes, sir.

8 Q A copy of what document?

9 A The documents that I kept, the rate paper that I kept.

10 Q For whom?

11 A Bobby Bennett.

12 Q Was this prepared by you?

13 A Yes, it was.

14 Q Does it accurately reflect her rate of trays made
15 during the period of time she worked in your department?

16 A Yes.

17 MR. MERCER: Objection. It calls for a conclusion.

18 MR. HILL: Well this man was familiar with her rate.

19 MR. MERCER: I don't think he was. He said he didn't

20 keep this, he made certain compilations but it was the group

21 leader that made the initial decision as to how many.

22 BY MR. HILL:

23 Q Did the group leader turn the record in to you, is
24 that where you got it?

25 A The group leader just picked it up and turned it in

1 to me.

2 Q Who kept the actual record?

3 A The operator herself.

4 Q Is this the original document that you kept?

5 A Yes, it is.

6 Q Is it an actual --

7 TRIAL EXAMINER: Wait a minute. When you say "this"
8 what are you referring to, the same Respondent's 2?

9 MR. HILL: A document which I have handed to him
10 and the next question will identify it.

11 TRIAL EXAMINER: You better have it marked for
12 identification so we know which document.

13 MR. HILL: Let me strike that and perhaps we can
14 stipulate on it.

15 I would like to stipulate that this marked Respondent's
16 Exhibit 2 is a true copy of the actual document.

17 MR. MERCER: If I can see it.

18 TRIAL EXAMINER: Do you mean a photostatic copy, is
19 that what you mean?

20 MR. HILL: Yes.

21 TRIAL EXAMINER: I thought perhaps you meant something
22 else. I didn't know. I have no objection to that.

23 MR. HILL: I just want to put the copy in.

24 MR. MERCER: I want the original of this, sir. I
25 have a reason for it.

1 I see no reason why they can't keep the photostat.

2 MR. HILL: Okay. You may have the original to use
3 in questioning, if you like. We will just put the copy in?

4 MR. MERCER: All right.

5 MR. HILL: Respondent offers into evidence Respondent's
6 Exhibit 2. That is a copy.

7 TRIAL EXAMINER: Is there any objection to Respondent's
8 2?

9 MR. MERCER: Yes. I would like to ask a couple of
10 questions about this before you make a ruling, sir.

11 TRIAL EXAMINER: Go ahead.

12 EXAMINATION ON VOIR DIRE

13 BY MR. MERCER:

14 Q You say this document is something that you kept,
15 is that right, sir?

16 A Yes, that's right.

17 Q Is this the only one you have left that you kept of
18 the girls?

19 A Yes, sir.

20 Q Do you mean you destroyed everyone but Bobby Bennett's?

21 A Yes, sir.

22 Q Was the answer yes?

23 A Yes.

24 Q Take a look up there at the staple. What was that
25 taken out of? It was stapled to something.

1 one you have.

2 TRIAL EXAMINER: Besides Mrs. Bennett?

3 THE WITNESS: Yes.

4 TRIAL EXAMINER: And you kept a record like that for
5 all the other 11 people?

6 THE WITNESS: I kept the record on every new person
7 that come in to our department.

8 TRIAL EXAMINER: That record is no longer available?

9 THE WITNESS: No. This is my own personal record.

10 TRIAL EXAMINER: What did you do with the other 11
11 records?

12 THE WITNESS: If I was satisfied with the person's
13 performance at the end of the three weeks I had no use for it.

14 MR. MERCER: Let me ask him a question on that, sir,
15 pertaining to the document.

16 Did Sandra Laven work for you?

17 THE WITNESS: Yes, she did.

18 MR. MERCER: Where is her record? You fired her.

19 MR. HILL: Mr. Trial Examiner, what Mr. Mercer is
20 asking may go to the weight of this.

21 The fact is that he has testified this activity
22 reflects Bobby Bennett's record.

23 TRIAL EXAMINER: I know but it is irrelevant. It
24 may go to the weight but it is irrelevant.

25 MR. HILL: Not to admissibility.

1 TRIAL EXAMINER: Let me finish my examination, sir.

2 MR. MERCER: I am sorry, sir.

3 TRIAL EXAMINER: Well what about this record of this
4 other girl that was discharged?

5 THE WITNESS: On this particular record I don't have
6 it. I don't know what happened to it. I disposed of it
7 after I left the stick winding department.

8 TRIAL EXAMINER: As I understand it you prepared
9 this. When did you write her name and this notation up here
10 "Started 5-24-66," when did you write that?

11 THE WITNESS: To the best I recall it was on the day
12 we got all the papers we wrote what day they started so I
13 could remember.

14 TRIAL EXAMINER: You made a paper like this for all
15 of the women?

16 THE WITNESS: All new people.

17 TRIAL EXAMINER: And each day as what did you call
18 her reported to you the number of trays they finished?

19 THE WITNESS: The group leader brought the papers.

20 TRIAL EXAMINER: As the group leader reported you would
21 note it here every day?

22 THE WITNESS: Yes.

23 TRIAL EXAMINER: You are sure this is the original
24 sheet that you made your notations on?

25 THE WITNESS: I'm pretty sure it is.

1 TRIAL EXAMINER: The exhibit may be received,
2 Respondent's 2.

3 (The document heretofore marked
4 Respondent's Exhibit No. 2 for
identification was received.)

5 MR. HILL: Thank you, sir.

6 DIRECT EXAMINATION (Continued)

7 BY MR. HILL:

8 Q Did you talk to any of the other 12 girls concerning
9 their rates, Mr. Trinkle?

10 A Yes, I did. I talked to all 12 people at the end of
11 the second training week they had. I talked to them
12 individually.

13 Q Did you talk to Bobby Bennett individually at that time?

14 A Yes. That's when the probation paper came about.

15 Q Had you discussed the 12 new people with anyone else?

16 A Yes, I had.

17 Q With whom had you discussed it?

18 A First, my assistant foreman, second, Mr. Polley.

19 Q When did you discuss the 12 people with Mr. Polley?

20 A It was at the end of the two weeks before I had talked
21 to the people.

22 Q Where did this conversation take place?

23 A It took place in Mr. Polley's office.

24 Q Was anybody else there?

25 A No.

1 Q Had you brought anything with you at that time to his
2 office?

3 A Not to my recollection. I don't remember.

4 Q Will you tell us please, to the best of your
5 recollection, what you said and what Mr. Polley said at that
6 time?

7 A Well Mr. Polley, as I remember, asked me how our new
8 operators were doing. I stated to him they were progressing
9 and that I thought they should be given an extra week.

10 Q Was anything else said?

11 A Not that I recall.

12 Q Did Mr. Polley agree?

13 A Yes.

14 Q Did you carry out what you had recommended and which
15 he had agreed to?

16 A Yes, I did.

17 Q There has been testimony in this record, Mr. Trinkle,
18 that Bobby Bennett worked on as many as 7 machines in one
19 day in your department.

20 Do the people in your department work on different
21 machines in one day?

22 A Yes, they did.

23 Q What causes them to do this, what brings it about?

24 A If the person were operating the machine and it were
25 to break down rather than let the operator sit or wait for

1 repair we are required to move the person so her rate can
2 be reached each day rather than just sit and wait on repairs.

3 Q Is it unusual for these machines to break down?

4 A No. They're quite old and they have a lot of
5 mechanical difficulty with them.

6 Q Are maintenance men kept in the area to repair them?

7 A Yes, they are.

8 Q Who calls attention to the fact the machine is broken
9 down?

10 A The operator has her group leader to have the maintenance
11 men repair their machine.

12 Q Is this the normal procedure?

13 A Yes, it is.

14 Q Might this happen several times during the day to a
15 girl?

16 A Yes, it could happen.

17 Q Has it happened several times in a day to one girl?

18 A Yes, it has.

19 Q Do you know of your own knowledge whether an operator
20 is ever taken off a machine in your department and put on
21 another one during the day at a particular time and put on
22 several different machines without the machine breaking down?

23 A It has happened on occasions if we needed a few sticks
24 off these machines in the group.

25 Q Do you know of your own knowledge whether Bobby Bennett

1 was told to move around from machine to machine without
2 having them break down?

3 A No, we didn't tell, we didn't want to move any of
4 our new girls unless they did have mechanical difficulty.

5 Q Was this the only occasion for moving Bobby Bennett
6 or the other new girls?

7 A Yes.

8 TRIAL EXAMINER: How many machines did you have there
9 doing that type of work?

10 THE WITNESS: Approximately 65 or 70 roughly.

11 TRIAL EXAMINER: How many girls were there working on
12 that operation all together including the new girls and
13 old girls?

14 THE WITNESS: Just operators?

15 TRIAL EXAMINER: Yes.

16 THE WITNESS: Approximately 60, 65 people.

17 TRIAL EXAMINER: And you had how many machines did
18 you say?

19 THE WITNESS: Seventy, 65 or 70 machines.

20 TRIAL EXAMINER: All right.

21 BY MR. HILL:

22 Q Did you have any occasion after you talked with
23 Bobby Bennett about her probation, did you talk to Bobby
24 Bennett again about her employment or her work?

25 A Just after the two weeks were up. I tried to work

1 closer with the people and the group leader and work in the
2 set where they worked, the 12 operators.

3 Q Did you have an occasion to talk specifically to
4 Bobby Bennett at a later time?

5 A Yes, I stopped and talked to her and each new operator
6 there.

7 Q What about?

8 A Just their rate, to bring their rate up.

9 Q I hand you what has been marked as Respondent's Exhibit
10 3 and ask you to examine that.

11 (The document above referred to
12 was marked Respondent's Exhibit
No. 3 for identification.)

13 BY MR. HILL:

14 Q Do you recognize that?

15 A Yes, I do.

16 Q Will you tell what it is, simply what it is not what
17 is on it.

18 A Well, this is a paper that the foreman has to fill out.

19 Q Is it a termination report?

20 A Yes, it is.

21 Q Does it contain your signature?

22 A Yes, it does.

23 Q Whose termination report is it?

24 A This is Bobby Bennett.

25 Q Is that a copy of the original that you have?

1 A Yes, it is a copy.

2 MR. HILL: At this time Respondent offers into evidence
3 Respondent's Exhibit 3 and asks that General Counsel stipulate
4 that it is a xerox copy, true copy of an original document,
5 and you may ask preliminary questions, if you like, subject
6 to the Trial Examiner's approval.

7 MR. MERCER: I've got some questions on it already.

8 MR. HILL: All right.

9 EXAMINATION ON VOIR DIRE

10 BY MR. MERCER:

11 Q Mr. Trinkle, would you take that in your hand the
12 exhibit we are discussing here which is Respondent 3. Did
13 you put the red ink in there?

14 A No, I didn't.

15 Q Did you put the typing in there?

16 A No, I didn't.

17 Q Do you know who did?

18 A No, I don't.

19 Q Somebody prepared that before you signed it?

20 A Yes.

21 Q Was it someone in the office?

22 A Yes.

23 Q Do you have any idea who put the red ink on there?

24 A No, I don't.

25 Q You didn't type in "terminated, unable to make rate,"

(The document heretofore marked
Respondent's Exhibit No. 3 for
identification was received.)

DIRECT EXAMINATION (Continued)

BY MR. HILL:

Q Mr. Trinkle, do you recall the day of Bobby Bennett's
termination?

A Yes, I do.

Q Did you talk with her on that day?

A Yes, I did.

Q Where did that conversation take place?

A I talked to Bobby Bennett at my desk.

Q Was anyone else present?

A No.

Q Will you relate for the Trial Examiner please what was
said at that time by you and by Bobby Bennett?

A Briefly I said that I felt Bobby had been given a fair
amount of time to make the rate, 29 trays a day, and that I
felt at this time there would be no sense of going any further
with the training because she had then been given the full
amount of training time, two weeks, and we would have to
terminate her and I would like for her to go and talk to Della
Haynes before her exit.

Q Mr. Trinkle, what was the reason for the termination of
Bobby Bennett?

A Failure to make rate.

1 reason behind the termination is competent and his testimony
2 on that point would be competent.

3 TRIAL EXAMINER: The objection is sustained.

4 BY MR. HILL:

5 Q Was in your decision to terminate Bobby Bennett, was she
6 terminated for any reason other than her failure to make rate?

7 A No.

8 Q Mr. Trinkle, do you recall an employee by the name of
9 Sandra Laven?

10 A Yes, I do.

11 Q Did she work under your supervision, sir?

12 A Yes, she did.

13 Q Do you recall when she started under your supervision?

14 A As I recall, around the same time as Bobby Bennett.

15 Q Could it have been before that time?

16 A Just a day or so is all.

17 Q What kind of job was Sandra Laven assigned to?

18 A Her job was identical to the job of Bobby Bennett.

19 It was operating a high channel winding machine.

20 Q Did any other employees begin work on the same day that
21 Sandra Laven did?

22 A Not to my knowledge. I can't remember.

23 Q She was not in a group of employees?

24 A No.

25 Q Did you have an opportunity to speak to Sandra Laven

1 about her work?

2 A Yes, I did.

3 Q Did you talk with Sandra Laven when you first assigned
4 her to work in your department?

5 A Yes, I did.

6 Q Was that on the day she began?

7 A Yes.

8 Q Where did you talk with her?

9 A At my desk.

10 Q Was anyone else present?

11 A My assistant foreman was present.

12 Q What was said to Sandra Laven and what did she say to
13 you?

14 MR. MERCER: Mr. Trial Examiner, I fail to follow the
15 thrust of this.

16 MR. HILL: I can perhaps with one question clear it up.

17 MR. MERCER: Go ahead.

18 BY MR. HILL:

19 Q You testified Sandra Laven worked on exactly the same
20 job as Bobby Bennett.

21 Was Sandra Laven terminated from that job?

22 A Yes, she was.

23 Q What was the reason for her termination?

24 A Unable to make rate.

25 Q The same reason that Bobby Bennett was terminated?

1 A Yes.

2 Q On what date was Sandra Laven terminated?

3 A As I recall it was on the same date.

4 Q The same date as Bobby Bennett?

5 A (Nods head to signify affirmative.)

6 Q I now ask you whether you had occasion to have a talk
7 with Sandra Laven when she came into your department?

8 A Yes, I did.

9 Q I believe you testified it was at your desk?

10 A Yes.

11 Q Will you tell us please what was said by you and by
12 Sandra Laven if you recall?

13 A I don't recall what was said by Sandra Laven but I do
14 recall speaking with Sandra and I told her that we expected
15 her to reach her rate in two weeks, 29 trays, and that we'd
16 work with her and help her and I also showed her what we did
17 in our department and showed her the coil forms and we showed
18 her what to watch for in damaged material and good parts from
19 the machine and we introduced her to the group leader. And we
20 told her of her surrounding co-workers who they would be and
21 who she was to report to and to ask for help if she needed it.

22 Q Is this your normal procedure, sir?

23 A Yes, it is.

24 Q At that time did you tell Sandra Laven that if she
25 failed to make her rate she would be given another assignment?

1 A No.

2 Q Have you told this to any of the new employees that
3 have been assigned to you?

4 A No.

5 Q Did you have occasion following that time to talk with
6 Sandra Laven about her work?

7 A Yes, I did have.

8 Q I hand you what has been received in evidence as
9 Respondent's Exhibit 1 and ask you to examine that.

10 Do you recognize that?

11 A Yes, I do.

12 Q What is that?

13 A This is a paper that I filled out after her two week
14 training period had expired and myself I had decided I
15 thought she should be given an extra week, that would be on
16 a probation basis and I asked her to sign it and she did.

17 Q Did you talk with Sandra Laven at that time?

18 A Yes, I did.

19 Q Did you present that paper to her?

20 A Yes, I did.

21 Q Was anyone else there at the time?

22 A No.

23 Q Did you ask her to sign it?

24 A Yes.

25 Q Did she sign it?

1 A Yes.

2 Q Did you have occasion at any later time to talk with
3 Sandra Laven regarding her work?

4 A Yes I had stopped and talked to Miss Laven at different
5 times during the third week just briefly.

6 Q What was the subject of the conversation at that time?

7 A This was just production rate.

8 Q Did you have occasion to talk with Sandra Laven at the
9 end of the third week?

10 A Yes, I did.

11 Q I hand you what has been marked as Respondent's Exhibit
12 4 for identification and ask you if you recognize that?

13 A Yes, I do.

14 (The document above referred to
15 was marked Respondent's Exhibit
No. 4 for identification.)

16 BY MR. HILL:

17 Q Is that a termination report?

18 A Yes.

19 Q Is this a similar document to the termination report
20 of Bobby Bennett to a similar form which has been received
21 in evidence as Respondent's Exhibit 3?

22 A Yes, it is.

23 Q Does it contain your signature?

24 A Yes, sir.

25 Q Was it prepared in the same manner and in the same

1 was charged a nickel for it?

2 A No,

3 Q Is that your signature there?

4 A Yes, it is.

5 Q Did you put down Tuner and S slash W?

6 A Yes.

7 Q Now where did you send the information about Sandra
8 Laven, where did you send this information when you were
9 making this up?

10 A We put this on a clip board in the production office
11 ourselves.

12 Q What did you write on that clip board?

13 A We just state the person's name, her last day of work
14 and the reason for her leaving.

15 Q Would you tell us what you put on the clip board?

16 A It was either unable to make rate or failure to make
17 rate.

18 Q You don't remember which it was?

19 A No, I don't.

20 TRIAL EXAMINER: Any objection?

21 MR. MERCER: No.

22 TRIAL EXAMINER: It may be received.

23 (The document heretofore marked
24 Respondent's Exhibit No. 4 for
25 identification was received.)

MR. HILL: I ask permission to substitute copies.

1 TRIAL EXAMINER: You may do so.

2 DIRECT EXAMINATION (Continued)

3 BY MR. HILL:

4 Q Mr. Trinkle, do you recall an employee by the name of
5 Roanna Meadows?

6 A Yes, I do.

7 Q Was she employed under your supervision?

8 A Yes, she was.

9 Q Do you recall approximately when she began work?

10 A As I recall it was in April. I don't remember the
11 date.

12 Q Was she assigned to a machine?

13 A No.

14 Q What was her assignment?

15 A Her assignment was a hand operation, I think what we
16 call a build up job consisting of soldering a resistor and
17 buswire to the coil form after it had been wound in the
18 machine. This was done all by hand.

19 Q This was in the stick winding department?

20 A Yes.

21 Q Was there a required rate?

22 A Yes, there was.

23 Q Was Roanna Meadows terminated?

24 A Yes, she was.

25 Q By you?

1 A Yes.

2 Q What was the reason for her termination?

3 A Unable to make rate consistent.

4 Q Did she at times make her rate?

5 A If she wanted to.

6 Q When Roanna Meadows began employment in your department
7 did you have an occasion to talk with her?

8 A Yes, I did.

9 Q Was this on the day she was hired in or assigned to
10 your department?

11 A Yes.

12 Q Where did that conversation take place if you recall?

13 A It took place at my desk.

14 Q Was anyone else present?

15 A Yes, my assistant foreman.

16 Q What was said by you to Roanna Meadows and by anyone
17 else at that time to the best of your recollection?

18 A At this time we showed Roanna Meadows a coil form that
19 had been built up previously and we told her this would be
20 her job, to perform this operation and we informed her of
21 her hourly rate and that we were interested in quality along
22 with production.

23 Q Is this your normal procedure?

24 A Yes.

25 Q Did you have occasion following that time to talk with

1 Roanna Meadows about her work?

2 A Yes, I did.

3 Q When was that, Mr. Trinkle?

4 A That was after the third week of training, I think.

5 Q Where did that conversation take place?

6 A It took place at my desk.

7 Q I hand you what has been marked for identification

8 Respondent's Exhibit 5 and ask you to examine that.

9 Do you recognize that?

10 A Yes, I do.

11 (The document above referred to
12 was marked Respondent's Exhibit
No. 5 for identification.)

13 BY MR. HILL:

14 Q What is that?

15 A This is a warning paper that Roanna Meadows had signed
16 after I had talked with her about her problem of unable to
17 make rate.

18 Q Did you prepare the document?

19 A Yes, I did.

20 Q Is this your writing up here "Roanna Meadows"?

21 A Yes, sir.

22 Q Is this your writing here "Failure to make rate"?

23 A Yes.

24 Q Was this presented to Roanna Meadows at the time you
25 talked with her?

1 A Yes, it was.

2 Q Was she asked to sign it?

3 A Yes.

4 Q Did she?

5 A Yes.

6 MR. HILL: Respondent offers into evidence Respondent's
7 Exhibit 5 and asks permission to substitute copies.

8 MR. MERCER: I have no objection.

9 TRIAL EXAMINER: It may be received.

10 (The document heretofore marked
11 Respondent's Exhibit No. 5 for
identification was received.)

12 TRIAL EXAMINER: You may withdraw the original.

13 MR. HILL: Thank you.

14 BY MR. HILL:

15 Q Did you have occasion at a later date to talk with
16 Roanna Meadows?

17 A Yes, I did.

18 Q I believe you said at times Mrs. Meadows made her rate,
19 is that correct?

20 A Yes. True.

21 Q Do you have any estimate as to how close on an average
22 she might come to her rate?

23 A Well I observed it seemed like once a week. It's
24 an irregular pattern.

25 Q Did her rate vary at times, I mean, her required rate?

1 A Yes, it did.

2 Q Why is that? Would you explain that?

3 A This is because of the difference of the number of
4 parts applied to the coil form. The more parts, the lower the
5 daily rate would be.

6 Q Depending on the parts she was working on?

7 A Yes.

8 Q When was this occasion when you had a talk with Roanna
9 Meadows concerning her work, do you recall?

10 A As I recall it was after she had worked a while and had
11 either made rate or come close to it. I don't recall.

12 Q Was Roanna Meadows placed on probation?

13 A Yes.

14 Q I hand you what has been marked for identification as
15 Respondent's 6 and ask you to examine that.

16 Are you familiar with that?

17 A Yes.

18 (The document above referred to
19 was marked Respondent's Exhibit
No. 6 for identification.)

20 BY MR. HILL:

21 Q What is that?

22 A This is a probation paper.

23 TRIAL EXAMINER: This is what?

24 THE WITNESS: A probation paper that I prepared after
25 the three week training period had been given and a warning

1 had been given.

2 TRIAL EXAMINER: To Meadows?

3 THE WITNESS: Yes.

4 BY MR. HILL:

5 Q Does it contain your signature?

6 A Yes.

7 Q This is for Roanna Meadows?

8 A Yes.

9 Q Did you prepare it?

10 A Yes, I did.

11 Q Does it contain Roanna Meadows signature?

12 A Yes.

13 Q Did you see her sign it?

14 A Yes.

15 Q Did you ask her to sign it?

16 A Yes, I did.

17 MR. HILL: Respondent offers into evidence Respondent's
18 Exhibit 6 and asks for leave to substitute copies and that it
19 be admitted.

20 MR. MERCER: I would like to ask one question on this.

21 TRIAL EXAMINER: All right.

22 EXAMINATION ON VOIR DIRE

23 BY MR. MERCER:

24 Q Referring to Respondent's Exhibit Number 6, who put
25 the check mark in the box next to "co-worker has performed

1 satisfactorily"?

2 A I did.

3 Q At the same time you checked that you put this woman
4 on probation?

5 A No. This comes back after this.

6 TRIAL EXAMINER: When you say "this" you had better
7 indicate and where.

8 THE WITNESS: This document is kept in the production
9 office. After the time has expired it comes back to us for
10 rating more or less and we indicate what has happened.

11 BY MR. MERCER:

12 Q Do you mean when this came back to you? How long did
13 it take before this came back to you?

14 A It was as I recall close to three weeks.

15 Q At that time you checked this box, saying, I quote,
16 Co-Worker has performed satisfactorily. End Quote.?

17 A Yes.

18 MR. MERCER: I have no objection to this document.

19 TRIAL EXAMINER: It may be received.

20 (The document heretofore marked
21 Respondent's Exhibit No. 6
for identification was received.)

22 MR. MERCER: I will stipulate it is a photostatic copy.

23 TRIAL EXAMINER: It may be received and you may
24 withdraw the original.

25 MR. HILL: Thank you.

1 BY MR. HILL:

2 Q Now you have already stated in answer to General Counsel's
3 questions that you had occasion to review Roanna Meadows
4 performance again approximately three weeks after her
5 probation?

6 A Yes.

7 Q I believe you stated you found it to be satisfactory
8 at that time?

9 A I found it to be satisfactory after Polley had talked
10 to her about her attendance and rate.

11 MR. MERCER: What, sir? I did not hear that.

12 THE WITNESS: I checked the paper satisfactory because
13 we had talked to Mr. Polley and myself had talked to her about
14 her attendance and rate.

15 MR. MERCER: What is that other word?

16 MR. HILL: Attendance.

17 BY MR. HILL:

18 Q Where did that conversation take place, Mr. Trinkle?

19 A It took place in Mr. Polley's office.

20 Q When was that in relation to the probation notice?

21 A This was after I had put her on probation.

22 Q About how long, do you recall?

23 A A day or so as I recall.

24 Q Was anyone else present at that time?

25 A No.

1 Q Mr. Polley, you and Miss Meadows?

2 A Yes.

3 Q What was said, to the best of your recollection, by
4 the parties present at that time?

5 A Well, first I told I had talked to Roanna Meadows I
6 thought as much as I should and it didn't do any good and I
7 told her Mr. Polley would like to talk to her.

8 So I went to his office with her, Roanna Meadows, and
9 we saw down and he was aware of the problem and he said she
10 would be expected to be at work every day and to make her rate.
11 And he asked her what problems she might have that she couldn't
12 come to work every day and when she was she couldn't make rate.

13 She just said she'd try harder, she knew she could
14 make it if she tried hard enough.

15 Q Did her performance improve after that?

16 A Yes, it sure did.

17 Q For how long did it improve?

18 A I know for the remainder of the week it improved but
19 that's all I remember.

20 Q Did it improve to the point where you checked "Co-Worker
21 has performed satisfactorily"?

22 A Yes.

23 Q Were there times after that she failed to make her rate?

24 A After I checked it?

25 Q Yes.

1 A Yes, there was.

2 Q Did you have any estimate based upon your observation
3 of her performance as to how often she would make rate?

4 MR. MERCER: I will object to this. They surely must
5 have some record on these things rather than just a guestimate.

6 MR. HILL: I think the record shows there are not any
7 other records.

8 I will withdraw the question.

9 BY MR. HILL:

10 Q Did you have occasion to terminate Roanna Meadows?

11 A Yes, I did.

12 Q I hand you what has been marked for identification
13 Respondent's Exhibit 7 and ask you to examine that please.

14 Do you recognize it?

15 A Yes, I do.

16 (The document was marked
17 Respondent's Exhibit No. 7
for identification.)

18 BY MR. HILL:

19 Q What is it?

20 A This is a termination report on Roanna Meadows.

21 Q Was it prepared in the normal course of your operations
22 there?

23 A Yes, it was.

24 Q Was it prepared at least handled by you in the same
25 manner as Sandra Laven's and Bobby Bennett's?

1 A Yes, it was.

2 Q Does it contain your signature?

3 A Yes, it does.

4 Q Did you submit information on a clip board indicating
5 what the reason for termination was?

6 A Yes, I did.

7 Q In the same manner that you did with Laven and Bennett?

8 A Yes.

9 Q I anticipate General Counsel's other questions here.
10 Did you do any typing on this?

11 A No, I didn't.

12 Q Did you write in the red ink?

13 A No.

14 Q Or the Tools returned "O.K."?

15 A No.

16 Q Was this on there when you signed the termination report?

17 A As I recall, everything was on the document except the
18 "O.K." on the Tools returned, as I recall.

19 MR. HILL: Respondent offers into evidence Respondent's
20 Exhibit 7 and asks leave to substitute copies if admitted.

21 MR. MERCER: I have no objection.

22 TRIAL EXAMINER: It may be received.

23 (The document heretofore marked
24 Respondent's Exhibit No. 7 for
identification was received.)

25 MR. MERCER: I will stipulate the photostatic copy is

1 identical to the original.

2 TRIAL EXAMINER: You may withdraw the original.

3 BY MR. HILL:

4 Q Did you make the determination to terminate Roanna
5 Meadows?

6 A Yes, I did.

7 Q What was the reason for that termination?

8 A Because she couldn't make her rate, unable to make
9 her rate.

10 Q What was the reason for Sandra Laven's termination?

11 A Unable to make her rate.

12 Q Was there anything other than inability to make rate
13 which caused the termination of Sandra Laven?

14 A No, there wasn't.

15 Q Was there anything other than inability or failure to
16 make rate that caused the termination of Roanna Meadows?

17 A No, there wasn't.

18 Q Did Bobby Bennett ever make her rate?

19 A No.

20 MR. HILL: That is all.

21 CROSS-EXAMINATION

22 BY MR. MERCER:

23 Q Mr. Trinkle, as a matter of fact Roanna Meadows did not
24 show up every once in a while, did she?

25 A Yes.

1 Q You had quite a problem with her about this, didn't you?

2 A Until we talked to her, yes.

3 Q You had to take her in to Mr. Polley and have him give
4 her a discussion about her very poor attendance, didn't you?

5 A The reason I took her to Mr. Polley's office was rate
6 and attendance.

7 TRIAL EXAMINER: What?

8 BY MR. MERCER:

9 Q Did Mr. Polley talk to her about her attendance and rate?

10 A Yes, sir.

11 Q Did she ever show up there with a hangover?

12 A Did I?

13 Q Did she? I am not talking about you.

14 A No, not to my knowledge.

15 Q How long had this attendance problem gone on, sir?

16 A I don't recall. As I remember it while she was in our
17 department.

18 Q After she was discharged was she in some other department?

19 A No.

20 Q Does she work out there now?

21 A No.

22 Q Now, you took her in to see Mr. Polley, is that right, sir?

23 A Yes, sir.

24 Q And you had warned her at least on two or three occasions
25 before that?

1 A Yes.

2 Q But yet on each occasion after warning her you had
3 checked that she was performing satisfactorily?

4 A The one occasion I had.

5 Q Only on one occasion?

6 I show you Respondent's number 5. Did you check that she
7 was working satisfactorily after warning her on that occasion?

8 A Yes, I did.

9 Q How about 6, did you do the same thing on 6?

10 A Yes, I did.

11 Q It happened twice, didn't it?

12 A Yes.

13 Q Now did she ever get over this thing of not coming in?

14 A Not completely.

15 Q As a matter of fact there was more than one reason why
16 you fired her, wasn't there?

17 A It was a combination of both.

18 Q Yes. When you testified a minute ago that there was
19 only one reason that was not the truth, sir, was it?

20 A Well, yes, I think so.

21 Q Then that is the truth and when you stated a moment
22 ago it was a combination of reasons, is that untrue?

23 A Well we have to use our own judgment if a person can
24 make her rate we would have kept her.

25 Q Even though she did not come in half the time?

1 A I wouldn't say so. She'd come in more than half the
2 time.

3 Q If it was only her rate you were worried about why
4 did you and Mr. Polley talk to her about her attendance?

5 A Well, we felt she could make her rate if we kept after
6 her and if we got this attendance problem straightened out
7 she would be able to.

8 Q As a matter of fact, sir, is it not true that both her
9 attendance and her rate figured in her discharge?

10 A I would say it was a combination of both.

11 Q It was not just one thing, was it, sir?

12 A It was more rate than anything else.

13 Q It was not just one thing, was it, sir?

14 A No.

15 Q Now you did not take Bobby Bennett in and have a
16 conference with Mr. Polley and try to straighten things up,
17 did you?

18 A No.

19 Q Now this Roanna Meadows, had she worked on another job
20 before she came to your department?

21 A I don't recall.

22 Q You don't remember whether she was a new hire when she
23 came in or not?

24 A No, I don't recall.

25 Q Well you do recall that Sandra Laven was a new hire,

1 Just answer the question.

2 BY MR. MERCER:

3 Q The question is: Are you aware Mr. Tarzian has told
4 people this that if they don't make it on one job they will
5 move them to another?

6 A I've heard this. I've never heard it from Mr. Tarzian.
7 I've heard it as general conversation.

8 Q Now you say you told Sandra Laven what her rate was
9 when she first came in, did you?

10 A Yes.

11 Q By the way before I leave Roanna Meadows, she did not
12 work in the same job as Bobby Bennett, did she, sir?

13 A She did not do the same operation.

14 Q Did you tell the other 12 persons who came in, the
15 other 11 who came in the same time as Bobby Bennett about the
16 rate they would have to make?

17 A Yes.

18 Q As a matter of fact, sir, weren't there several of these
19 people that did not attain their rate and were not discharged?

20 A As I recall, everybody in the group either came as
21 close to the rate as I felt they should or made rate.

22 Q Will you stand up here and look around you? Do you
23 know this girl in the green sweater back here, do you see her?

24 A Yes.

25 Q Do you remember her? Did she make her rate during

- 1 those three weeks?
- 2 A No, she certainly didn't.
- 3 Q Did she get fired?
- 4 A No, sir.
- 5 Q But you don't have her record, do you?
- 6 A No, sir.
- 7 Q What is her name, the girl in the green sweater?
- 8 A Karen White.
- 9 Q But you have none of her records?
- 10 A Just the record I remember.
- 11 Q You don't have anything in writing on her?
- 12 A No.
- 13 Q You don't have anything in writing on any of these
- 14 people except Bobby Bennett, is that right, sir?
- 15 A That's right.
- 16 Q You don't have any record on Sandra Laven?
- 17 A I don't have any records.
- 18 Q Didn't you tell us earlier that you kept the records
- 19 on people that did not make it?
- 20 A Yes, or come as close as I thought they should.
- 21 Q Doesn't Sandra Laven fit in that group that didn't
- 22 make it and didn't come as close as she should?
- 23 A No, sir, she didn't.
- 24 Q Well, why did you fire her then?
- 25 A She didn't fit in the group that I thought she should

1 stay.

2 Q Why didn't you keep her record on it like you did on
3 Bobby Bennett?

4 A I just disposed of it. There's no reason for it.

5 Q What is the difference why you keep one and not the
6 other?

7 A This was one of the worst papers I'd ever seen.

8 Q As a matter of fact, sir, didn't you have a darn good
9 idea she would need that as evidence?

10 A I did not.

11 Q Again about Roanna Meadows, isn't it a matter of fact, sir,
12 she had no trouble making that rate any time she wanted to if
13 she worked at it?

14 A That's right.

15 Q So part of her problem was she just plain did not want
16 to work, isn't that it?

17 A That's right.

18 Q It was not inability, it was a matter of her attitude
19 she wanted to horse around instead of work, isn't that true?

20 A That's right.

21 Q Didn't that have something to do with discharge also?

22 A This caused the drop in rate.

23 Q That was not true of Bobby Bennett, was it?

24 A I don't know.

25 Q You don't know? She worked for you, didn't she?

1 A You can't look at the record and tell.

2 Q That is just my point. That does not have, in no way
3 does that show whether the machine broke down or didn't
4 break down, does it, sir?

5 A No, it doesn't.

6 Q On thos days she made a low rate she might have been
7 idle half the day, isn't that right, sir?

8 A We don't let anybody sit. We move them.

9 Q She might have 7 breakdowns on one day on one of those
10 days you recorded her rate?

11 A She could have, yes.

12 Q Wouldn't that affect her rate?

13 A It could yes.

14 Q It would affect your rate, wouldn't it?

15 A I've seen people make rate and they move 5 or 6 times.

16 Q That was not my question. Isn't it true if you are
17 moved 5 or 6 times whether you make rate or didn't make rate
18 that this would affect the number of trays you put out?

19 A Yes.

20 MR. HILL: He has already answer this question, Mr.

21 Trial Examiner.

22 TRIAL EXAMINER: You may answer.

23 THE WITNESS: Yes it could.

24 MR. MERCER: Would it or would it not? You are experienced
25 in this.

1 THE WITNESS: It would depend on the individual.
2 On some people it wouldn't matter how many breakdowns they
3 had during the day they would make the rate.

4 MR. MERCER: That is not my question.

5 MR. HILL: I think it's --

6 MR. MERCER (interrupting): No, it isn't.

7 Let us take the fastest person you have, the very
8 fastest one. We will talk about that one.

9 My question is not whether they could still make it
10 if they were superhuman.

11 My question is: Wouldn't even their production be
12 down from what they could do normally if they had 7 breakdowns?

13 THE WITNESS: Yes it could be.

14 MR. MERCER: That is my question.

15 BY MR. MERCER:

16 Q Didn't you have a girl working at the same time among
17 these 11 or 12 girls named Betty McLaughlin?

18 A Yes.

19 Q Didn't Betty McLaughlin come to you and demand to be
20 sent back to her original line?

21 A She did not demand. She asked.

22 Q Didn't she say she would quit if you didn't send her
23 back?

24 A Yes, she did.

25 Q And you sent her back, did you not?

1 A Yes, I did.

2 TRIAL EXAMINER: How much longer do you think you are
3 going to be on this?

4 MR. MERCER: I am about through, sir.

5 TRIAL EXAMINER: All right.

6 BY MR. MERCER:

7 Q Did Bobby Bennett work for you before or after the
8 election?

9 A I don't recall but I think it was after.

10 Q The voting was over then?

11 A Yes, I think it was.

12 Q How about Sandra Laven, did she work for you before the
13 election?

14 A I don't recall.

15 Q The election was May twelfth. Does that help you any?

16 A Yes. It would have been after.

17 Q Did she also work before?

18 A I don't recall.

19 Q How about Roanna Meadows, did she work before the
20 election, back in April?

21 A I think she did, yes, before the election.

22 Q Did Roanna Meadows wear a Union button?

23 A I don't recall seeing her.

24 MR. MERCER: That is all the questions I have.

25 MR. DONNENFELD: No questions.

REDIRECT EXAMINATION

1
2 BY MR. HILL:

3 Q Did Bobby Bennett ever asked to be transferred back
4 to line 9?

5 A Not to my knowledge.

6 MR. HILL: Nothing further.

7 TRIAL EXAMINER: That is all. You may step down.

8 (Witness excused)

9 TRIAL EXAMINER: Off the record.

10 (Discussion off the record.)

11 TRIAL EXAMINER: On the record.. We will take a
12 recess until 1:30.

13 (Thereupon at 12:10 o'clock p.m., a recess was taken
14 until 1:30 o'clock p.m.)

15

16

17

18

19

20

21

22

23

24

25

AFTERNOON SESSION

1
2 TRIAL EXAMINER LONDON: The proceeding will be in order.
3 Call your witness.

4 MR. HILL: Jennings Polley.

5 JENNINGS M. POLLEY

6 a witness called by and on behalf of the Respondent, being
7 first duly sworn, was examined and testified as follows:

8 TRIAL EXAMINER: Give us your full name and address
9 please.

10 THE WITNESS: Jennings M. Polley.

11 DIRECT EXAMINATION

12 BY MR. HILL:

13 Q Spell your last name.

14 A P-o-l-l-e-y. Address 582 Green Road, Bloomington,
15 Indiana.

16 Q Mr. Polley, by whom are you employed?

17 A Sarkes Tarzian, Incorporated, Bloomington.

18 Q Where is the tuner division located?

19 A East Hillside Drive.

20 Q What is your job with that company?

21 A Production manager of the tuner division.

22 Q How long have you held that job, sir?

23 A Approximately 12 years.

24 Q Would you describe for the Trial Examiner generally
25 what your responsibilities are as production manager of the

1 tuner division?

2 A Briefly the scope of my duties involve the supervision
3 of the production shop or assembly line or test department,
4 the factory and tuner group, the related plant services which
5 include inspection and quality and maintenance.

6 Q Are there foremen for these various departments that
7 you have named?

8 A There are foremen and general foremen.

9 Q Do the general foremen report to you?

10 A Yes, they do.

11 Q Do the foremen report to you?

12 A Indirectly.

13 Q Do they at times report to you on matters?

14 A Yes, they do.

15 Q Do you know Agnes Felty?

16 A Yes, I know of Agnes Felty.

17 Q Has she worked for the company?

18 A She works for the company.

19 Q Do you know when she started to work for the company?

20 Approximately.

21 A I think she's worked there twice. The first time in 1961
22 for a period of time. The second time in April of 1962.

23 Q Do you know what the term crimp and solder pattern means,
24 does that have a meaning to you?

25 A Yes. That's a pattern which we assign to individuals

1 based primarily upon test which they take when they are
2 employed. It has to do with the category of jobs which are
3 progressive in nature and have certain aspects, standing on
4 your feet, certain acuity problems, consideration, things
5 of that nature.

6 Q What is crimp work, for example?

7 A Crimp work is an operation where a given operator
8 applies her tool upon which she physically connects one part
9 in our product to another part by wrapping or crimping or
10 cutting this part.

11 Q What does solder work consist of in your plant?

12 A Soldering is the use of a heated soldering iron upon
13 which we apply the soldering iron to components in addition
14 to solder upon which to make electrical connections.

15 Q Are there different types of soldering jobs there in
16 your plant?

17 I mean, are there some jobs requiring the use of a
18 solder pot instead of a solder iron?

19 A Yes. We have jobs in coil winding that makes use
20 of a solder pot.

21 We have some jobs in sub-assembly that makes use of
22 a solder pot.

23 Q Perhaps you should explain what a solder pot is.

24 A It's a metallic container upon which you can add bulk
25 solder with the addition of heat melts this into a molten form.

1 Q Do you have other job patterns in the plant?

2 A We have a pattern of tester.

3 We have patterns for inspection and quality.

4 We have the crimp and solder pattern.

5 We have what we call a machine operator pattern.

6 We have a mechanical pattern.

7 We have a technical pattern.

8 Q Now with regard to crimp and solder pattern and tester
9 pattern, for example, when is an employee first assigned such
10 a pattern?

11 A When they're first hired in based upon their test
12 which they take as they do as an applicant in personnel
13 employment.

14 Q Now you mentioned the pattern called machine operator's
15 pattern.

16 Are employees who are assigned that when they apply
17 based upon their test?

18 A This pattern is reserved for our workers in the factory
19 who have been with us for a long period of time, who through
20 their age, physical handicaps, allergies, certain restrictions
21 upon which --

22 TRIAL EXAMINER (interrupting): Off the record.

23 (There was a short interruption because of a child in
24 the audience.)

25 TRIAL EXAMINER: On the record.

1 A (continuing) -- the machine operator's pattern is the
2 pattern which is reserved primarily for our old seniority
3 category of people who are getting along in age, who have
4 physical handicaps, arthritis, rheumatism, allergies, solder
5 fumes, what have you, things of this nature.

6 Q Approximately how many persons in the plant are
7 assigned to a machine operator's pattern, if you know?

8 A Our list of machine operator pattern is 55, 60 people.

9 Q Was this true in April of this year?

10 A Yes, it is.

11 Q About the same number?

12 A The same number.

13 Q You say this is for, I believe you said old seniority
14 people?

15 A That's right.

16 Q What is the criteria as far as seniority is concerned
17 for the assignment of persons in the machine operator's
18 pattern?

19 TRIAL EXAMINER: Excuse me, before you leave that, I
20 may have misunderstood him. I want to make sure about this.

21 Did you say faithful seniority people?

22 THE WITNESS: I didn't say faithful.

23 TRIAL EXAMINER: I thought --

24 THE WITNESS (interrupting): I said old people.

25 MR. HILL: High seniority.

1 TRIAL EXAMINER: There was something that sounded
2 like faithful. I wanted to make sure.

3 MR. HILL: I didn't hear it.

4 TRIAL EXAMINER: I'm sorry.

5 Go ahead.

6 BY MR. HILL:

7 Q What is the criterion as far as seniority is concerned
8 for assigning a person to a machine operator's pattern?

9 A They have to be with the company for a period as I
10 stated, they have to basically have the work record.

11 Q For what period of time does it normally take before
12 such an assignment is made, what period of time in terms of
13 seniority?

14 A We won't consider any for reassignment for less than
15 six years seniority.

16 Q At the current time how much seniority does the lowest
17 seniority person have who is assigned to a machine operator's
18 pattern?

19 MR. MERCER: Mr. Trial Examiner, I object to this;
20 55 to 60 such people out there. I think the company records
21 are the best evidence on this longevity.

22 MR. HILL: Mr. Examiner, I am asking him if he knows
23 of his own knowledge.

24 TRIAL EXAMINER: You may answer.

25 BY MR. HILL:

Q If you know.

1 A The youngest person has I believe 10 years seniority.
2 Her name is Matrice Turner.

3 Q How do you spell that first name?

4 A M-a-t-r-i-c-e.

5 Q Turner? And she has 10 years seniority?

6 A It will be 10 years this November.

7 Q Is she the oldest seniority person in that pattern?

8 A She is the youngest person in that pattern as far
9 as seniority is concerned.

10 Q Do you know what Agnes Felty's pattern is?

11 A Her job pattern is crimp and solder.

12 Q Does she ever hold a machine operator's pattern?

13 A She never had a machine operator's pattern.

14 Q When Mrs. Felty began employment with the company
15 the second time in April of 1962, what work did she perform
16 at that time?

17 A Well, various crimp and solder jobs.

18 I say various because of the different operations that
19 are located on our lines.

20 She worked on line 11, line 12, line 14, 8 and line 3
21 prior to her transfer back to the production job.

22 Q Is there anything unusual about the transfers from
23 line to line of this type?

24 A It happens every day.

25 Q You mentioned the transfer to the production shop.

1 When did that transfer occur, do you know?

2 A I believe it was September 1963.

3 Q Where is the production shop?

4 A It's to the north end of the factory, north side of
5 our assembly operation.

6 Q Is this also known as the machine shop?

7 A No. This is known as our production machine shop.

8 Q What type of work did Mrs. Felty perform in the
9 production machine shop?

10 A She worked on the different types of machinery, shaft
11 assembly machines, punch presses, milling machines.

12 Q What type of pattern would normally fill such a job?

13 A Machine operator pattern.

14 Q Now, at the time that Mrs. Felty was working in the
15 production machine shop, were there other girls working in
16 the shop also?

17 A Yes, there was approximately 50.

18 Q Were there other crimp and solder patterns working in
19 the shop at that time?

20 A Yes, there was.

21 Q Was Mrs. Felty transferred out of the production machine
22 shop sometime?

23 A She was transferred out of the machine shop September
24 of 1965.

25 Q Were other girls transferred out at that time?

1 A Every girl who had a crimp and solder pattern was taken
2 out of the machine shop, production machine shop at that time.

3 Q What was the purpose behind that transfer?

4 A We were having a seniority layoff in our factory.
5 We were confronted with, faced with the problem of laying off
6 some of these high seniority people in this machine operator
7 pattern and I made the decision that we would relocate these
8 crimp and solder people and we placed these people on these
9 machine operator jobs with operators who had machine operator
10 patterns.

11 Q Do you have a policy with regard to the filling of
12 machine operator jobs by certain people?

13 A Our policy is that if there is a machine operator job
14 available and we have a machine operator employee with that
15 pattern that they get that job.

16 If we have machine operator pattern jobs available and
17 no available operator with a machine operator pattern then
18 we will fill the job with a girl in the crimp and solder
19 pattern.

20 Q Has this occurred in the past when you filled them
21 with crimp and solder girls?

22 A Yes, it has.

23 Q Now, I believe you testified Agnes Felty was transferred
24 from the production machine shop in September of 1965. Do
25 you know where she was transferred?

1 A She was transferred to assembly line 4.

2 Q What type of work did she perform there?

3 A Crimp and solder. She was given a crimp and solder job.

4 Q How long did she work on that line?

5 A Possibly a week, ten days. Then she was moved to
6 assembly line 6.

7 Q What type of work did she do on line 6?

8 A She was given a solder operation on line 6.

9 Q How long did she work there?

10 A She was assigned to this line approximately a month.
11 Then she took a leave of absence the latter part of November
12 1965.

13 Q What type of leave was that?

14 A That was a medical leave of absence, indicating she
15 had a respiratory problem recommending a 30 day leave of
16 absence.

17 Q Had you had any occasion to see the doctor's statement
18 at that time?

19 A Nothing in particular.

20 Q Did she take another leave at any time around that
21 period?

22 A Shortly before that she was given an excused absence
23 of one week.

24 Q How long a medical leave did she request, if you know?

25 A Thirty days.

1 Q How long was she actually on leave?

2 A She returned to work on the thirteenth day of
3 December 1965. Two weeks.

4 Q She was gone approximately two weeks?

5 A Yes, sir.

6 Q Where was she assigned upon her return?

7 A Assembly line 4.

8 I'm sorry. Assembly line 8.

9 Q What type of job was she assigned to there?

10 A To a job which, a machine operator pattern job. She
11 worked on rivet base.

12 Q Rivet base?

13 A Yes, sir.

14 Q Is that any particular position on the line?

15 A It's the very beginning of the line.

16 Q Were there any machine operators available to fill
17 that position at that time?

18 A No, sir.

19 Q Could you describe for us the type of work that Mrs.
20 Felty did on the line 8 job, the rivet base job?

21 A We produce a TV tuner and this is a small metal chassis,
22 about 3, 4 inches in length I guess, with a series of holes
23 in the top upon which we have operators insert a feed through
24 capacitor, tube shields and soldering rings and a bracket.

25 Q Approximately how many girls worked on line 8?

A The complete line involved approximately 40, 44 girls.

1 Q Of that do you have an estimate as to how many girls
2 were doing soldering?

3 A Approximately half of them.

4 Q Is this soldering with a soldering iron?

5 A It's all soldering except for this first operating,
6 this is where these bases go through a soldering oven. All
7 the other soldering jobs are with a soldering iron.

8 Q Approximately how far away were the soldering oven
9 from Agnes Felty's position?

10 A Six or eight feet.

11 Q Were the other soldering jobs then on the other side
12 of the oven from Agnes Felty?

13 A Yes, they were.

14 Q Would you have any estimate as to how many soldering
15 jobs you have on the production floor?

16 A Two hundred to 250 depending on the models we're running
17 at the time.

18 Q Is this located in any one particular area of the floor?

19 A It's all over the factory with the exception of the
20 production machine shop area.

21 Q Do you recall an occasion in April this year when line
22 8 was dissolved?

23 A Yes, sir, I do.

24 Q How did that breaking of that line come about, do you
25 recall?

1 A There was a reevaluation of our production scheduling
2 and orders we had on our books, a result of a plant joint
3 scheduled meeting between the production department and
4 production material control planning department that we had
5 one too many lines.

6 Q Who makes the decision then to dissolve a line, is it
7 a joint decision?

8 A A joint decision with the general foreman over assembly
9 and myself. We agreed it would be dissolved.

10 Q Would you tell us when line 8 was dissolved?

11 A The latter part of April 1966.

12 Q When was the decision made to dissolve it?

13 A Around the middle of April.

14 Q Are there other occasions when lines have been dissolved
15 and broken up?

16 A Yes. The following month we broke up another line.
17 Just two weeks ago we broke up another line.

18 Q At the time line 8 was dissolved, was Agnes Felty
19 employed on line 8?

20 A Yes. She was working on the base rivet.

21 TRIAL EXAMINER: What?

22 THE WITNESS: Working on base rivet, sub assembly.

23 BY MR. HILL:

24 Q Was there a reassignment made of the employees on
25 line 8?

1 A All the operators off line 8 were reassigned to the
2 various vacancies that we had in our operations throughout
3 the factory with the exception of, oh, 8 or 10 and these
4 people were carried as extra.

5 Q Who made or worked out these assignments?

6 A The actual assignment of the girls to the different
7 jobs was made by Mrs. East, my administrative assistant.

8 Q And she worked out the actual administrative portion
9 of the assignment?

10 A Yes, sir.

11 Q Now, Mr. Polley, calling your attention to April 19
12 of this year, did you have an occasion to talk with Agnes
13 early
Felty/in the morning on that day about her new assignment?

14 A Agnes Felty was assigned to line 4. She reported to
15 the new line for work. She indicated to her foreman so her
16 foreman told me, that she had a machine operator pattern.

17 MR. MERCER: I am going to object as not responsive.

18 I believe you asked him about his conversation with Mrs.
19 Felty --

20 MR. HILL (interrupting): I asked him if he had a
21 conversation with Mrs. Felty.

22 TRIAL EXAMINER: Yes. Did you have a conversation with
23 her?

24 THE WITNESS: Yes, sir, I did.

25 BY MR. HILL:

Q Where did that conversation take place, Mr. Polley?

1 A In my office.

2 Q Approximately what time?

3 A Shortly after 7:00 o'clock.

4 Q Who was present during the conversation?

5 A Mrs. Felty is all I recall.

6 Q Had you talked with anyone else about Mrs. Felty
7 prior to this occasion that morning?

8 A Yes, sir.

9 Q With whom?

10 A Her foreman called me and told me that she reported
11 to her line and she had a machine operator pattern and that
12 she could not work on the assembly line.

13 I told him this was incorrect, that her pattern was
14 crimp and solder, she was not a machine operator. And he
15 said he wanted me to talk to her and he was sending her over
16 to talk to me.

17 Q Was it at this time you had the conversation with her?

18 A Yes, it was.

19 MR. MERCER: Could we find out who was it that called
20 him?

21 BY MR. HILL:

22 Q Would you give us the name of the foreman that called?

23 A Vance Young.

24 Q Would you give us the conversation that took place
25 between you and Mrs. Felty that morning to the best of your

1 recollection?

2 A Mrs. Felty come into my office and I said, "What's
3 wrong?" And she said, "You've assigned me to a line I can't
4 work on," something to this extent, "that I've got a doctor's
5 statement where I'm allergic to the solder fumes."

6 I said, "Agnes, you haven't been assigned to a job where
7 there is any soldering involved. We've made it a point to
8 give you an all crimp operation." She said, "I can't work
9 on the line." I said, "How do you know you can't work on
10 the line until you go try it and I suggest that you go back
11 to the operation and you try to do the job."

12 Q Was anything else said at that time that you recall?

13 A No, sir.

14 Q Do you recall her saying anything to you about a
15 machine operator's pattern?

16 A Yes. She indicated she thought she had a machine
17 operator's pattern. I told her she didn't have, she had a
18 crimp and solder pattern.

19 Q Did you make any attempt to check her pattern at that
20 time to see what it was?

21 A I reviewed her folder to be sure we hadn't made an
22 error.

23 Q What happened then? Did Mrs. Felty say anything further?

24 A She indicated she would go try to do the job and she
25 didn't think she could do it.

1 Q Was that the end of the conversation?

2 A As far as I recall.

3 Q Did you have any further conversation with Mrs. Felty
4 that day?

5 A No, I didn't.

6 Q Did you have any conversations with anyone regarding
7 Mrs. Felty that day?

8 A Not that I recall.

9 Q Now the following day, did you have an occasion to talk
10 with Mrs. Felty?

11 A Yes. She again appeared in my office --

12 Q (interrupting): About what time?

13 A Shortly after seven.

14 Q Was anyone else there?

15 A No. She was sitting in the outer room from my office.
16 When I walked in I asked her what was wrong. She was quite
17 hoarse. I said, "Well, what's your problem?" She said, "Well,
18 I can't do that job you assigned me to." I said, "Well, we
19 gave you an all crimp job. What's your problem?" She said,
20 "These solder fumes are bothering me." I said, "Where is the
21 nearest girl who is doing soldering on the job, nearest to
22 you?" She said, "There's a girl on each side of me who has
23 soldering irons." I said, "Do these girls have fans with
24 which to carry away the soldering fumes?" She said, "Yes
25 they do but it wasn't doing any good." She indicated she

1 couldn't do the job.

2 I told her that in order to help her to work on this
3 line we would also give her a soldering fan even though she
4 had an all crimp job and I picked the phone up and called her
5 foreman and told her to go check a fan out for her.

6 Q Who was her foreman?

7 A Vance Young.

8 Q Was there anything else said in that conversation?

9 A Yes, I think I indicated she should give this job a
10 fair trial to see whether she could do it or not.

11 Q Did you have any other occasion to talk with Agnes
12 Felty that day?

13 A No, I didn't.

14 Q How long did Agnes Felty work that day, do you know?

15 A She clocked out of the factory at 8:30 that morning
16 and went home.

17 Q Now did you have any other occasion that week to talk
18 with Mrs. Felty?

19 A No, I didn't.

20 Q- When was the next time that you talked with her?

21 A Monday morning. When I walked into the office at
22 7:00 o'clock she was again sitting in this little outer room
23 and I asked her if she wanted to see me and she said, "Yes."
24 I said, "Well what's wrong?" And she handed me the doctor's
25 statement. This doctor's statement indicated that --

1 Q (interrupting): Let me interrupt you a moment.

2 I hand you what has been received in evidence as
3 General Counsel's Exhibit 7 and ask you to examine that.

4 Is that a copy of the doctor's statement that she handed
5 to you at that time?

6 A Yes, it is.

7 Q Did you read the statement?

8 A Yes, I did.

9 Q Go ahead please with the conversation.

10 A The statement indicated and was underlined that Agnes
11 Felty was under this doctor's care and that she must not,
12 must not underlined, come into contact with soldering fumes.

13 My comment to Miss Felty at that time was, "Agnes, I
14 don't know what to do with you and if you're going to work
15 in this factory there's soldering fumes throughout the whole
16 area and I don't know where to put you where you won't come in
17 contact with soldering fumes."

18 Q Was there anything else said in that conversation by
19 you or Mrs. Felty that you recall?

20 A Not at that time but I left then. I went to the
21 personnel office and checked with the nurse about this
22 statement and to the possible ramifications.

23 I also called up Mr. Woods, our legal counsel, on the
24 telephone and talked to him about the possible ramifications
25 of it. And we concluded that under those conditions, with that

1 particular doctor's statement that it wasn't safe for Agnes
2 to work in the factory, that we would put her on medical
3 leave based on that statement and that she could return back
4 to work when she brought us a statement which indicated it
5 was all right for her to work under the factory conditions.

6 Q Mr. Polley, to your knowledge, were there any available
7 jobs in the plant at that time upon which there were no
8 solder fumes?

9 A In my opinion there isn't anywhere in our factory
10 where you are not exposed to soldering fumes.

11 Q Mr. Polley, do you have a company policy concerning
12 the bumping of employees holding down a job?

13 A Bumping. As far as seniority layoffs is concerned
14 we have, as far as relocation or replacement, relocation of
15 people where their jobs have been eliminated we do not.

16 Q You do not bump?

17 A No.

18 Q I believe you mentioned that when there are machine
19 operator jobs available and machine operators available that
20 some bumping may take place?

21 A That is correct.

22 Q Are there any other instances when you would bump a
23 person out of an existing job but not a layoff, when it's
24 not a layoff situation?

25 A No, sir.

1 Q Was the medical problem of Agnes Felty and her
2 presentation of the doctor's statement the sole reason for
3 your placing on medical leave of absence?

4 A Yes, sir, it was.

5 Q Mr. Polley, do you know Helen La Shure?

6 A Yes I know of her.

7 Q Do you recall a time when she was assigned to the
8 night shift?

9 A Not particularly I don't. I know she works on the
10 night shift.

11 Q Do you know if she works there?

12 A Yes, I do.

13 Q Do you know what job she performs on the night shift?

14 A Coil winding machine operator.

15 Q Is that a machine which has soldering on it?

16 A Yes, it does.

17 Q Is it one of these solder pots you're talking about?

18 A It has a solder pot.

19 Q Mr. Polley, are there occasions when you reclassify
20 employees from, say, test pattern to crimp and solder?

21 A Yes. We reclassify. We have reclassified testers to
22 crimp and solder.

23 Q How does that come about, sir, why?

24 A Different ways. When a co-worker requests is one.

25 Two, job availability is another. Three, inability of an

1 individual to satisfactorily perform a job of tester.

2 Q Is tester a higher rate or pattern than crimp and solder?

3 A It's a higher skilled job.

4 Q Have there been any occasions when you have needed
5 crimp and solder people and reclassified testers because of
6 that?

7 A Not very frequently. Primarily it goes the other way.

8 Q Mr. Polley, do you know Reva Robertson?

9 A I know of Reva Robertson, yes.

10 Q Was she employed by the company as her testimony here
11 shows?

12 A Yes. She was another one of our night operators.

13 Q What job did she have at night?

14 A She was one of our quality audit girls on our night
15 shift.

16 Q Who were the other quality audit girls on the night shift
17 at the time Reva Robertson was working there?

18 A Ann Branam, Reva Robertson, Rita Clemmons, Twila Robbins.

19 Q Where was Reva Robertson assigned?

20 A Reva Robertson was assigned to coil winding.

21 Q Do the quality audit girls work in different places or
22 what is the breakdown in regard to that?

23 A One of these girls is assigned to our production machine
24 shop. The other three was assigned to our coil winding
25 operation.

1 Q Who is the girl who was assigned to the production
2 machine shop?

3 A Twila Robbins.

4 Q She performed a quality function in the machine shop?

5 A She was quality audit girl.

6 Q And the other girls were quality coil, audit and coil
7 winding?

8 A That's correct.

9 Q Do you recall an occasion when a reduction in force
10 was made with regard to the quality audit department at night?

11 A Yes. That was done as a result of my decision to
12 Mr. Parish and Mr. Payne that --

13 Q (interrupting): When was that, first, Mr. Polley?

14 A It was the latter part of April.

15 Q Of this year?

16 A Yes.

17 Q Could it have been in May of this year?

18 A It's very possible.

19 Q Would you explain who made the decision to reduce the
20 force in that department?

21 A It was my decision to reduce the force by one person.

22 Q How was that decision arrived at and why?

23 A We attempted to build our night shift coil winding
24 group up to a set of four winders, four sets of winders.
25 In doing so this would require one quality audit girl for

1 each of two sets of machines and one quality audit girl for
2 our shop.

3 In addition to this we felt it necessary we carry
4 one extra audit girl in case of absenteeism or in case of
5 an overload, an unusual problem.

6 During this time we had a drop out of winders off
7 our night shift that it was no longer necessary that we carry
8 the extra girl as a floater or fill in because we wasn't able
9 to maintain our full sets of winders at that time.

10 Q Is it fair to say you had fewer coil winders and,
11 therefore, you needed fewer quality girls?

12 MR. MERCER: I will object to that.

13 TRIAL EXAMINER: Sustained. Leading.

14 BY MR. HILL:

15 Q Would you summarize then what the reason was for the
16 reduction in force?

17 A We had one too many quality girls.

18 Q For what?

19 A For our coil winding and group where we had three girls
20 assigned.

21 Q At the time that this reduction was made, who was the
22 foreman of quality audit on night?

23 A We only have one night foreman and that's Mr. Payne.

24 Q Was there any other supervisor with responsibility for
25 quality audit at that time?

1 A The responsibility for technique and method is the
2 responsibility of Mr. Parish.

3 It was Mr. Payne's assignment to see to it that these
4 people did their job.

5 Q Did you consider your decision to reduce the force
6 with any other person, did you discuss it with anyone else?

7 A I discussed it with Mr. Parish and Mr. Payne and
8 explained the reasons for it and gave them instructions to
9 do so.

10 Q To carry out the reduction?

11 A Yes, sir.

12 Q Now, Mr. Polley, did you give them any instructions
13 as to how the reduction in force was to be carried out?

14 A It was to be done on the basis of seniority of the
15 quality girls.

16 Q Were there any other instructions given?

17 A None until they come back with a few questions in
18 respect to what they should do with the girl that was to be
19 reduced.

20 Q Do you know who the girl with the least seniority in
21 that group was, Mr. Polley?

22 A Miss Twila Robbins.

23 MR. MERCER: I didn't hear that.

24 THE WITNESS: Twila Robbins.

25 BY MR. HILL:

Q Were any instructions given Mr. Parish or Mr. Payne

1 with regard to Mrs. Robbins?

2 A Yes. I told them to tell her it was necessary we reduce
3 our quality force at night by one and for them to tell her
4 so since she was the youngest and at the same time offer her
5 a job as a winder if she would like to work at that.

6 Q Did you have an open winder position at that time?

7 A Yes. That's the basis for the reduction, the fact we
8 didn't have enough winders.

9 Q Did you talk with Twila Robbins?

10 A I did not.

11 Q Do you know if anyone talked to Twila Robbins?

12 A Mr. Payne and Mr. Parish talked to her.

13 Q Did Mr. Parish tell you that he talked with her?

14 A Yes, he did. He told her --

15 MR. MERCER: Objection. I am going to restrict this
16 to the man who talked to her and what the conversation was,
17 not his hearsay.

18 TRIAL EXAMINER: Objection sustained.

19 BY MR. HILL:

20 Q Did you have any occasion following this time to talk
21 with Mr. Parish and Mr. Payne concerning your reduction in
22 force order?

23 A Yes. They told me if agreeable with Mrs. Robbins that
24 they had told her she was being reduced to move from quality
25 they would offer her a job in winding and she had agreed to

1 take it.

2 Q Where did this conversation take place, Mr. Polley?

3 A In the production office.

4 Q Who was present at that time?

5 A Mr. Parish and Mr. Payne and myself.

6 Q Go ahead.

7 A And they wanted to know who was to be sent back to the
8 shop to take Miss Robbins place.

9 I told them to take the next youngest girl and reassign
10 her to the shop from the coil winding area.

11 Q Who was the next youngest girl in seniority?

12 A Reva Robertson.

13 Q Did you have any discussion then following that time
14 with Mr. Parish and Mr. Payne concerning Reva Robertson's
15 assignment?

16 A Yes.

17 Q Where was that discussion?

18 A In the production office.

19 Q Who was present?

20 A Mr. Payne and Mr. Parish.

21 Q What was said at that time?

22 A They told me that they had approached Miss Robertson
23 in respect to transferring back to the shop, that she couldn't
24 be moved back there because she was allergic or subject to
25 dust problems, she had a respiratory ailment.

1 Q What else was said?

2 A Well, I told them that had to be the job we had to
3 offer her to do if she wished to stay in quality and if she
4 couldn't do that job that we would offer her a job and she
5 would have to be removed from quality and we would offer her
6 a job as coil winder and if she was agreeable to do this then
7 it wouldn't be necessary to bump Mrs. Robbins whom we had
8 talked to previously.

9 Q By the way, Mr. Polley, would you describe where this
10 stick winding audit contact, stick audit machine shop is?
11 Describe it, where the room is.

12 A Toward the north end portion of our factory.

13 Q How large is the room?

14 A It's approximately 35 feet by a little over 40. It's
15 a little over one full bay.

16 Q Is the room enclosed?

17 A Yes, the room is enclosed.

18 Q Do you know the purpose of that enclosure?

19 A The basic reason for enclosing the room is because of
20 the terrific amount of noise generated by these machines.

21 Q Now, did you have any further occasion to talk with
22 Mr. Parish or Mr. Payne about the assignment to Reva Robertson?

23 A They told me that they had discussed this assignment
24 with Mrs. Robertson and that she was noncommittal at that time
25 as to whether she would accept the winding job or not and she

1 had requested an opportunity to give it some thought to it
2 and she would let us know the next day as to what she would do.

3 Q Did you learn of her decision the next day?

4 A Yes.

5 Q How did you learn about it?

6 A Mr. Parish reported to me that he had talked to Mrs.
7 Robertson and she had essentially decided not to take the
8 reassignment, that she was going to quit.

9 Q Did Mr. Parish tell you that she said she was going to
10 quit?

11 MR. MERCER: I object to that.

12 TRIAL EXAMINER: Sustained.

13 BY MR. HILL:

14 Q Mr. Polley, in carrying out this reduction in force
15 in this department was your normal policy used that you
16 normally use in reduction in force?

17 A Yes. When we have a reduction we do it on the basis
18 of seniority.

19 Q Was seniority strictly followed in this case?

20 A Yes, it was.

21 Q Was there any other basis for making this reduction other
22 than seniority?

23 A None whatsoever.

24 Q At the time that this reduction took place, did you have
25 any knowledge of any Union activity or Union membership of

1 Reve Robertson?

2 A Not personally I didn't.

3 Q Did you have any knowledge of it yourself?

4 A No, sir.

5 Q Mr. Polley, do you know Bobby Bennett?

6 A I know of Bobby Bennett.

7 Q Do you know when line 9 was dissolved?

8 A Sometime the latter part of May.

9 Q Of May?

10 A Yes.

11 Q This year?

12 A 1966.

13 Q What was the occasion for dissolving line 9?

14 A The same basic reasons upon which we dissolved line 8.

15 We had a review of our order status, our availability of help
16 and the planning group concluded that we reduce one additional
17 line.

18 Q Did this result in the transfer of all the girls that
19 had been working on line 9?

20 A The majority of them were transferred.

21 Q Did this include Bobby Bennett?

22 A Yes, it included Bobby Bennett.

23 Q Do you recall any instances when you discussed with
24 Howard Trinkle the rate of the girls in his department?

25 A I don't know that I recall any specific instance.

1 Q Have you discussed the rate in the past of the girls?

2 A Yes. It's standard routine to discuss work problems
3 with supervision and especially when we transfer help from
4 one area to another area.

5 Q Is it possible you did discuss the rate of his girls
6 with Howard Trinkle?

7 MR. MERCER: Mr. Trial Examiner --

8 TRIAL EXAMINER (interrupting): Sustained.

9 BY MR. HILL:

10 Q Mr. Polley, does the night stick winding department
11 come under your supervision?

12 A Yes, it does.

13 Q Who is in direct charge of that department at night?

14 A The foreman in charge is Mr. William Payne.

15 Q Are you familiar with the term, machine delay time?

16 A Yes, I am.

17 Q What does that mean?

18 A This is idleness, a breakdown for this equipment which
19 prohibits or prevents the winding operator from producing sticks.

20 Q Has there been a problem with machine delay time on the
21 night shift?

22 A Yes, sir.

23 Q Would you explain that for us?

24 A Well, it's our experience, primarily my experience I
25 should say where you have two groups of people working on the

1 same machine or the same job. There are maintenance problems
2 associated with this equipment. One group wants to blame
3 all the problems off on another group. It's a question where
4 when you have an operation setup such as our night operation
5 where our supervision is limited we don't have at our
6 disposal the staff service which we have in the day time and
7 we feel like we have problems that are related with night
8 operation work.

9 Q In your opinion, is the machine delay time problem
10 related to maintenance at all?

11 A I think it's definitely connected with maintenance, yes.

12 Q Has the machine delay time been high on the night shift
13 or low?

14 A It's been excessive.

15 Q In comparison with the day shift how would it stand?

16 A It consistently runs higher at night than it does in
17 the day.

18 Q Are there more or fewer girls working on the night shift?

19 A There are now there are fewer winders on the night shift
20 than there are on the day shift.

21 Q Mr. Polley, calling your attention to April of this year,
22 were you having machine delay time problems and maintenance
23 problems with the night shift at that time?

24 A We were having problems with our night shift in respect
25 to maintenance.

1 We were having problems with our night shift with
2 respect to production.

3 We were having problems on our night shift with respect
4 to quality of production that we were getting.

5 Q Did you discuss these night shift problems with the
6 night shift foreman?

7 A Almost each evening I would talk to him about those
8 problems.

9 Q Generally what type of thing were you discussing,
10 specific problems or?

11 A We would review our schedules. We would leave
12 instructions for the night shift; the day shift foreman would
13 leave a schedule for the night shift foreman to run by. And
14 I would talk to him about the importance of meeting the
15 schedule because the night operation was supporting some of
16 our day operations and we were having some supply difficulties
17 in this respect.

18 Q Did you give the foreman, Mr. Payne, any suggestions
19 or instructions with regard to what to do with the night shift?

20 A Nothing in particular to tell except I wanted him to see
21 what he could do to straighten it out.

22 Q Did you leave it up to him to solve it?

23 A Yes. He had the knowledge of what the procedures were,
24 what the function of each group was.

25 He was in somewhat of a handicapped position because of

1 the fact he was the only supervisor there and there were other
2 departments involved besides the winders.

3 TRIAL EXAMINER: Let's take a ten minute recess.

4 (A recess was taken.)

5 TRIAL EXAMINER: The proceeding will be in order.

6 MR. HILL: You may cross-examine.

7 CROSS-EXAMINATION

8 BY MR. MERCER:

9 Q Mr. Polley, you testified in regard to certain problems
10 that you had on the night shift.

11 Has this been a continuing problem since you have held
12 your present position?

13 A Yes, I think so.

14 Q You have also testified to the effect that you had
15 no and I quote you Personal unquote knowledge of Reva
16 Robertson's Union activity.

17 Do you in fact, sir, have knowledge of her Union
18 activity?

19 A No.

20 Q Did reports reach you of her Union activity?

21 A Not that I recall.

22 Q Did anyone tell you of her Union activity?

23 A Not that I recall.

24 Q Well, what is the significance, if any, of the use by
25 you of the term "personal" knowledge?

1 Robbins --

2 Will you repeat the question and see if I answer the
3 question correctly?

4 Q I think we will both be better off.

5 My point was, sir, as I understood what you are telling
6 us that if Reva Robertson went on stick winding then it would
7 not be necessary to bump Twila Robbins?

8 A That is correct.

9 The question was raised as to who would do the quality
10 audit job in our shop since Twila Robbins had already agreed
11 to be transferred to coil winding machine and if Reva Robertson
12 couldn't go to the shop and do that job we would not have an
13 audit girl for our shop activity.

14 Q Mr. Polley, you were aware of the fact, were you not;
15 that Mrs. Felty had had difficulty with solder fumes before
16 April 19, 1966?

17 A Yes, sir.

18 Q And isn't it true, sir, that you were also aware of the
19 fact that she did not have difficulty with the fumes when she
20 was on that rivet job?

21 A That is correct.

22 Q Isn't it true, sir, that when she worked on the rivet job
23 while she was not directly, solder fumes were not directly on
24 her, solder fumes were in the area in the sense that they are
25 in the area of the whole factory?

1 A Yes. I would say yes.

2 Q Isn't it true now as a matter of fact, Mr. Polley, that
3 she was not contending that she was unable to work anywhere
4 in this factory?

5 A I couldn't conclude that. The only thing I could say
6 is she said she couldn't do this job.

7 Q That was the job between soldering irons, wasn't it,
8 sir?

9 A Yes, on line 4.

10 Q She never contended she couldn't do the rivet job,
11 did she?

12 A No, sir.

13 Q Did she ever contend she couldn't do a test job?

14 A No, sir.

15 Q Did she ever contend she couldn't do a job in the
16 machine shop area?

17 A No, sir.

18 Q Did she ever contend she couldn't do a job down at
19 the rectifier plant?

20 A No, sir.

21 Q As you testified in fact you put her on medical
22 leave, did you not, sir?

23 A Yes, based on the doctor's statement.

24 Q Yes. I am not disputing it. I am saying you put
25 her on leave, she didn't come in and say "Give me the leave"

1 forms."

2 A That's correct.

3 Q Now you gave some testimony that I could not understand
4 about only bumping on machine operators jobs.

5 Are you trying to convey the impression to us that
6 seniority bumps are only allowed on the machine operators jobs?

7 A No, sir.

8 Q They are allowed on other jobs?

9 A In case of reduction in force, yes, sir.

10 Q Well, in the Reva Robertson situation you were not
11 actually laying anybody off, were you?

12 A Yes. No. We didn't lay her off because we offered
13 her another job.

14 Q I don't mean her. I mean, people were not actually
15 being laid off, they were being reassigned?

16 A Reva Robertson herself?

17 Q No. In the situation you gave us an explanation about
18 a series of moves here, now, and you have referred to this by
19 the term, reduction in force. Were you actually laying
20 individuals off, putting them in layoff status or were you
21 merely reassigning them?

22 A We were laying off one out of our quality department
23 and on the basis of this layoff we offered her a reassignment.

24 Q Who was being laid off?

25 A Twila Robbins.

1 A In assembly line work.

2 Q Is it higher skilled than a machine operator?

3 A Yes.

4 Q That would depend on the machine somewhat?

5 A Yes.

6 Q Would it depend somewhat upon what the tester is testing?

7 A That could be a definition of tester. When I'm speaking
8 of tester I'm speaking of our tuner tester.

9 Q Are there other testers not as skilled as machine
10 operators jobs, other types of tester besides tuner tester?

11 A I presume. Not in our factory.

12 Q They are in the company, are they not?

13 A Not in our division. I'm not aware of them.

14 Q Which pay is higher, the tester jobs or the machine
15 operators jobs?

16 A Which machine operators are you talking about?

17 Q Are there some of them that pay about the same?

18 A That's right.

19 Q Are there some of them that pay exactly the same?

20 A That's right.

21 Q Well, is there any real pay differential here you are
22 talking about or just some sort of manual dexterity skill?

23 A It's a basic inherent skill. No pay differential.

24 Q It does not hurt your pocketbook if you are one or the
25 other?

1 A No, it doesn't.

2 Q Are you aware of the fact that when Mrs. Felty originally
3 went on medical leave back in November, if I remember, of
4 1965, that this was a direct result of being placed between
5 two soldering irons?

6 A I know it was not a direct result.

7 Q Do you know it was not? What was it the result of?

8 A She actually had a job of soldering.

9 Q She was actually doing soldering herself?

10 A That's right.

11 Q Then, in other words, she was doing the job of a
12 solder, is that right, sir, hand solder?

13 A Yes.

14 Q Then would the girls that worked between her solder?

15 A It's possible.

16 Q Well, depending upon the makeup of your line?

17 A It's very possible.

18 Q Now you also mentioned at the time you had a layoff
19 carrying some people as, again I quote you "extra." Who
20 did you carry as extra?

21 A Do you want me to name them?

22 Q I want to know what you mean by, who they were and
23 what you mean by this?

24 A When we leave people temporarily unassigned to a
25 specific job, we break a line up we have certain vacancies

1 throughout our factory and we attempt to assign these people
2 to the known vacancies until all the vacant jobs are exhausted.
3 It's likely, and in this particular case we ended up with a
4 few extra people over what our current job requirements were
5 at that time.

6 So we carried what we call the extras and each day
7 we assign them out to some job which was created by,
8 primarily absenteeism.

9 Q They work as opposed to being laid off at home?

10 A Yes.

11 Q How long did you continue to carry people as extra?

12 A Oh, I would say a maximum of a week.

13 Q In regard to the April 20 discussion you had with Mrs.
14 Felty what you have testified about and you stated that you
15 indicated she should give it a fair trial.

16 Now, did you actually say to her you wanted to give her
17 a fair trial or what did you say?

18 A I don't know what I said in respect to on the twentieth.

19 I believe that was on the nineteenth that she come to
20 my office and said she couldn't work on the line.

21 Q You don't recall anything like that on the twentieth?

22 A It's very possible.

23 Q Do you recall saying it or not, sir?

24 A No, I don't recall it.

25 Q All right, on the nineteenth, as I recall your testimony,

1 if you don't recall it say so, you testified that Mrs. Felty
2 indicated that she had a machine operator pattern.

3 Now my question is: Did she say to you, did she use
4 this term "machine operator pattern" or in fact did she talk
5 about the fact she worked in the machine shop?

6 A I don't think she indicated one way or the other.
7 The word to me from her supervisor was she had told them she
8 had a machine operator pattern.

9 Q Do you mean then on the nineteenth of April Mrs. Felty
10 did not tell you that she had a machine operator pattern?

11 A I don't know specifically whether she mentioned it or
12 not. And I checked her folder to be sure and we did discuss
13 her pattern, yes.

14 Q Then are you telling me that you do not now recall
15 whether this was said or was not said?

16 A Yes, we discussed her pattern.

17 Q Then, sir, did she tell you she had a machine operator
18 pattern or didn't she, on April 19?

19 A I don't know whether she specifically said it or not.
20 We discussed her pattern.

21 Q Do you remember her saying on the nineteenth that she
22 had worked in the machine shop?

23 A I don't know whether she said it or not. I knew she
24 had worked in the machine shop.

25 Q You knew that?

1 A Yes.

2 Q Of your own knowledge?

3 A Yes.

4 Q You knew she worked there for some time, didn't you?

5 A Oh, yes.

6 Q Don't let me cut you off.

7 You knew she worked there for a while?

8 A Yes, I knew she worked there in the machine shop.

9 Q Aren't there people who work in the machine shop that
10 don't have so-called machine shop patterns?

11 A Are there now?

12 Q Are there ever?

13 A Yes. Agnes was one of them.

14 Q How about right now, don't people go back there and work
15 once in a while that don't have it?

16 A That's correct.

17 Q As a matter of fact, off and on for years hasn't that
18 been going on?

19 A Yes I'd say as far as I can remember we loan people
20 around. This is part of the things we do with these extra
21 people that I was explaining to you about.

22 Q How far back does your memory go back on that, 15
23 years, approximately?

24 A Well, I've only been production manager 12.

25 Q How about 12? Will you settle for that?

1 A Yes, I'll settle for 12.

2 Q You mentioned a general foreman in regard to this
3 line 8 break up who talked to you but you did not mention his
4 name. Who was that, sir?

5 A Mr. James Hamric.

6 Q Is line 8 operating today?

7 A No, it isn't.

8 Q Has it operated in the last week, sir?

9 A No, it wasn't.

10 Q Was it operating three weeks ago?

11 A No, it wasn't.

12 Q How long ago was the last time it operated?

13 A Line 8 hasn't operated as a full line since we broke it
14 up the latter part of April.

15 TRIAL EXAMINER: The latter part of what?

16 THE WITNESS: April.

17 BY MR. MERCER:

18 Q When was it operated as a partial line?

19 A We set a line up as a or we have a final line which
20 is strictly final assembly which I believe we started
21 approximately two weeks after we broke the line up.

22 Q What jobs are on this assembly that you just mentioned?
23 Tell us all the jobs on it.

24 A There are crimp and solder jobs.

25 There are some machine operator jobs.

1 There are some inspection jobs.

2 And there's quality audit job and repair job and
3 stock handling job.

4 Q Mr. Polley, when you say crimp and solder job do you
5 mean a person necessarily is either crimping or soldering?

6 A No, not necessarily.

7 Q What other operations might they be doing beside crimping
8 or soldering?

9 A Progressive assembly work.

10 Q Putting things together on an assembly line?

11 A Yes.

12 Q Does that involve soldering?

13 A Strictly assembly work doesn't.

14 Q But that is in your definition and the term you use that
15 is a crimp and solder job?

16 A Progressive assembly line.

17 Q I also have in my notes that you state that there were
18 200 to 250 soldering jobs in the Hillside plant, am I right
19 in that, sir?

20 A Yes, I think I made that statement.

21 Q Now you are referring to jobs that require actual
22 soldering by the person on the job in that figure?

23 A Yes, with the use of soldering irons, yes.

24 Q You are not talking about any that is close or nearby,
25 you are talking about the direct use of soldering?

- 1 A Yes. The use of soldering mechanism of some kind.
- 2 Q Whether it is a hand iron or pot or a machine?
- 3 A Yes.
- 4 Q It might be any one of those?
- 5 A Yes.
- 6 Q How many total production and maintenance jobs do you
- 7 have in that plant?
- 8 A Production and maintenance, now, do you include testers?
- 9 Q Everything that is not office clerical or managerial.
- 10 A At the present time we have around 500.
- 11 Q Well, is it fair to say you have from 250 to 300
- 12 non-soldering jobs?
- 13 A Jobs that's not using a soldering iron, yes.
- 14 Q Or soldering machine or soldering pot?
- 15 A Correct.
- 16 Q Mr. Polley, you have mentioned policies about machine
- 17 shop operators and how long it takes to be a machine operator
- 18 pattern, do you remember talking about company policy about that?
- 19 A Yes.
- 20 Q Is this policy in any sort of a written form?
- 21 A No, it isn't.
- 22 Q Has it ever been posted in any form in the plant?
- 23 A No, it hasn't.
- 24 Q Has it ever been passed out to employees?
- 25 A No, it hasn't.

1 Q Have you ever informed the employees of this so-called
2 policy?

3 A No, I haven't.

4 Q How are people to know these things, Mr. Polley?

5 A By talking to them I'll explain it to them.

6 Q Now you mentioned certain other policies you have here
7 about seniority and things.

8 Are these posted written policies that an employee can
9 go and look at and understand?

10 A I don't know, I don't know of any posted.

11 Q As a matter of fact, you are talking about internal
12 management policies that you know about, not necessarily
13 employees, isn't that true, sir?

14 A Yes.

15 Q And you have made exceptions from time to time in these
16 policies, haven't you, sir?

17 A I would say so.

18 Q And Mr. Tarzian probably made exceptions, has he not,
19 sir?

20 A I would say so, yes.

21 Q As a matter of fact it is up to you whether to apply
22 a general or normal policy, isn't it, sir?

23 A Me specifically?

24 Q Yes, in your plant.

25 A Yes, most of it. That's my jurisdiction.

1 Q Were you here yesterday when I examined Mr. Sears?

2 A Yes, sir.

3 Q Mr. Sears testified at that time under oath that you
4 have a problem getting people out there, is that true, sir?

5 A Yes, that's true.

6 Q In fact Bloomington has a pretty critical labor shortage?

7 A Very critical.

8 Q And isn't it true, sir, that in view of the fact in
9 view of the critical problem you have that you and Mr. Hamric,
10 your general foreman, and Mr. Payne and whatever other
11 supervisors there are including Mrs. Haynes, the nurse and
12 counsellor, that you do your best to keep people if you can
13 because you need people?

14 A Yes, I'd say so.

15 Q You try to see that people work out there so that you
16 have people to do these various assembly jobs that you have,
17 isn't it true, sir?

18 A If they try to do the job that's true.

19 Q I realize if a person won't work you got to get rid of
20 him, isn't that true, sir?

21 A Yes, sir.

22 MR. MERCER: I have no more questions.

23 REDIRECT EXAMINATION

24 BY MR. HILL:

25 Q Mr. Polley, you testified on cross-examination the

1 problem with night shift maintenance has been a continuing
2 problem.

3 Have steps been attempted throughout the continuance
4 of this problem to try to solve it?

5 A Yes. As with any problem we have or I personally have
6 daily conferences with Mr. Payne in respect to the night
7 shift performance.

8 Q Are you still having the problems?

9 A Yes.

10 Q Now Mrs. Felty was not a tester, was she?

11 A No, she wasn't.

12 Q And at the time that Mrs. Felty was transferred to line
13 4 were there any rivet jobs open, not filled by machine
14 operators?

15 A No, there wasn't. There were no openings on any of
16 this type work.

17 Q Were there any machine pattern jobs open which you
18 could not fill with machine pattern operators?

19 MR. MERCER: Mr. Trial Examiner, I am going to object to
20 this. This is redirect.

21 I don't think this meets cross at all.

22 MR. HILL: I am taking this from my notes.

23 TRIAL EXAMINER: He may answer. Objection overruled.

24 BY MR. HILL:

25 Q Were there any machine pattern jobs open at that time?

1 which could not be filled by machine operators?

2 A No, there wasn't, none that we didn't have machine
3 operators assigned to.

4 Q I think perhaps you cleared this up but is it my
5 understanding that Twila Robbins would have been laid off had
6 she not taken the coil winding job?

7 MR. MERCER: I will object to that as leading.

8 TRIAL EXAMINER: Sustained.

9 BY MR. HILL:

10 Q I think it was cleared up.

11 You testified on cross-examination about the extra
12 people working in temporary assignments throughout the plant.

13 What type of work would the extras perform, Mr. Polley?

14 A Practically anything that was, any job that was left
15 vacant for absenteeism, a crimp job, a solder job, a packing
16 job, a machine job. We've had them carry tuners. Anything
17 that was available. We've loaned them out to re-work. We've
18 used them as inspectors. Practically anything that was of a
19 temporary nature.

20 Q Mr. Polley, is it your practice now to ever assign
21 crimp and solder pattern people to machine shop when there are
22 machine operator girls available to fill that position?

23 A No, sir.

24 Q There has been testimony throughout the hearing now
25 on various line numbers and lines. Mr. Mercer talked about

1 line 8 or asked you about line 8, its dissolution and its
2 being reestablished with a partial line.

3 When you say line 8, what are you referring to?

4 A Physically a production facility which we have
5 designated by numbers. This appears as line 8.

6 Q Can this line be adapted to various types of tuners
7 that are run through it, various jobs?

8 A Yes. It can, yes.

9 Q In other words, a line designation line 8 does not
10 mean a particular type of job that works there, a particular
11 thing that is run through?

12 A No, it doesn't.

13 Q When Agnes Felty was reassigned to line 4 following
14 the dissolution of line 8, do you know whether there were any
15 jobs open on progressive assembly which were not near solder
16 fumes?

17 A Well, I thought I was assigning her to one that wasn't
18 a soldering job. So, yes, I knew there were jobs where
19 soldering wasn't involved.

20 Q You thought you were assigning her to a non-soldering
21 fume job?

22 A Yes, sir. I made a point to be sure --

23 MR. MERCER: I am going to object to any volunteer,
24 he's answered the question.

25 MR. HILL: I think he can explain it.

1 TRIAL EXAMINER: Yes. He may answer.

2 Go ahead and finish your answer.

3 THE WITNESS: Well, I tried to make it a point to be
4 sure she got an all crimp job assigned to her.

5 BY MR. HILL:

6 Q There was some testimony on cross-examination about the
7 number of jobs in the plant.

8 How many crimp and solder jobs are there in the
9 production plant?

10 A Well, offhand I would estimate 350.

11 Q Three hundred and fifty crimp and solder?

12 A Yes.

13 Q Was it your testimony that 250 of these are solder jobs,
14 do I understand?

15 A I think my testimony was there are some between 200
16 and 250 soldering jobs or soldering operations in effect in
17 the factory.

18 Q Are these all crimp and solder pattern jobs?

19 A No. We use soldering irons in our test department also.

20 Q Included among these are jobs such as Agnes Felty
21 had on line 4, included among these crimp and solder jobs?

22 A The job she was assigned to was included, yes, sir.

23 Q There was testimony on cross-examination about this
24 being a critical labor area.

25 Do you know what the most critical problem is for you,

1 what pattern is most difficult for you to obtain out there?

2 A Tester pattern first and crimp and soldering pattern.

3 MR. HILL: That is all.

4 RECROSS-EXAMINATION

5 BY MR. MERCER:

6 Q Mr. Polley, Mr. Hill just asked you some questions about
7 machine pattern jobs and whether such jobs were open at a
8 critical time here involving Mrs. Felty here and her medical
9 difficulties, and as I understood your answer it was that none
10 of these jobs were open, that you did not have machine operators
11 assigned to, was that your answer, sir?

12 A Is that a direct question?

13 Q Yes, sir. Was that your reply?

14 A Would you restate the question please?

15 Q Yes.

16 Q It was my understanding that you replied to Mr. Hill
17 that at the time when, you know, Mrs. Felty had the difficulty
18 here in April 1966, that there were no, he asked you if there
19 were any machine pattern jobs open and it was my understanding
20 you replied to that question that there were no such jobs
21 open that you did not have machine operators assigned to,
22 was that your reply?

23 A I believe that was correct.

24 Q As a matter of fact weren't some of those machine
25 operators who were assigned to those machines people who did not

1 have a machine pattern?

2 A That's possible. I don't know for sure but it's possible.

3 Q Now you also mentioned that you had a policy not to
4 assign people to machine pattern jobs.

5 Now under what circumstances does this policy apply
6 that you don't assign people to machine pattern jobs?

7 A When there are machine operators available.

8 Q Again, I take it that when you say if machine operators
9 are available that does not necessarily mean that those machine
10 operators have a machine pattern?

11 A We have operators with a machine operator pattern
12 that do not operate a machine.

13 Q And you have people operating machines that don't have
14 machine operators pattern, don't you, sir?

15 A That's right, sir.

16 Q Again, this policy, is that like these other policies
17 now this is one of these internal things, that only the
18 management knows about?

19 A No. The jobs where our girls operate the machines they
20 don't have a machine operator pattern is called a skilled
21 classification and the notices of these jobs are always posted
22 on the bulletin board for anyone that's interested in them
23 to indicate their intent.

24 Q Do you mean you have posted your policy about this?

25 A I didn't say that.

- 1 Q My question is: Have you posted your policy?
- 2 A No, sir.
- 3 Q Have you communicated your policy to the employees
- 4 en masse or individually telling somebody?
- 5 A We put notices of these job openings on the bulletin
- 6 board.
- 7 Q But not as a policy?
- 8 A No, sir. We have rules and regulations concerning
- 9 these jobs.
- 10 Q When you put out one of these notices on the bulletin
- 11 board, can people bid on that job?
- 12 A Yes, they can.
- 13 What do you mean by bid?
- 14 Q I mean, can people put in for them?
- 15 A Yes, sir.
- 16 Q How do they do that?
- 17 A By turning their name in.
- 18 Q What determines selection?
- 19 A Their ability, their work record, their seniority.
- 20 Q As a matter of fact, it is in that order, isn't it,
- 21 ability, work record and third, seniority?
- 22 A No, I wouldn't say one has any more preference than
- 23 the other. We consider all of it.
- 24 Q Do you consider ability equal to seniority?
- 25 A If seniority is the same we would give weight to ability.

1 Q : How about if seniority is less but ability is greater
2 which do you pick the person with better ability or the
3 person with longevity.

4 A Would you identify for me two type people.

5 Q You have a superior worker and you have an average
6 worker. If the average worker has been there 10 years, the
7 superior worker has been there 5 years, you have an opening,
8 I am talking about their average on this type of job, who
9 gets the job?

10 A If their work record is clear the person with tenure.

11 Q Is that a firm policy, sir?

12 A Pretty much, sir.

13 Q There are exceptions, sir, aren't there, sir?

14 I will pass the witness.

15 MR. HILL: Nothing further.

16 TRIAL EXAMINER: That is all. You may step down.

17 MR. HILL: Wilbur Parish.

18 WILBUR L. PARISH

19 a witness called by and on behalf of the Respondant, being
20 first duly sworn, was examined and testified as follows:

21 TRIAL EXAMINER: Give us your full name and address and
22 speak out loud please.

23 THE WITNESS: Wilbur L. Parish, Rural Route 5,
24 Bloomington, Indiana.

25 DIRECT EXAMINATION

1 BY MR. HILL:

2 Q Mr. Parish, how do you spell your last name?

3 A P-a-r-i-s-h.

4 Q Are you employed, sir?

5 A Yes, sir.

6 Q By whom?

7 A Sarkes Tarzian Incorporated.

8 Q When did you begin your employment at Sarkes Tarzian?

9 A On April 8, 1965 I believe.

10 Q What is your job with that company?

11 A I'm general foreman in charge of quality control
12 for the tuner plant.

13 Q How long have you held that job?

14 A Approximately that time.

15 Q Mr. Parish, there has been testimony here concerning
16 a reduction in force in quality audit on the night shift in
17 April of this year.

18 Are you familiar with that reduction in force?

19 A Yes, sir.

20 Q Did you play any part in determining that it should be
21 made?

22 A It was discussed with me, yes, sir.

23 Q By whom?

24 A Mr. Polley.

25 Q Did he ask for your suggestions concerning it, your

1 thoughts concerning it?

2 A Yes, sir.

3 Q Where was this discussed?

4 A In the production office.

5 Q More than once or was there one particular time when
6 you discussed it?

7 A I don't remember all the times that, it was initially
8 discussed once, yes, I believe.

9 Q Who were the girls who were working under your
10 supervision in quality audit at night at that time when the
11 reduction in force was first considered?

12 A There was Anna Branam, Rita Clemmons, Reva Robertson
13 and Twila Robbins.

14 Q What was Twila Robbins' assignment?

15 A She was quality audit girl on stick contact assembly.

16 Q What were the other girls?

17 A They were quality audit girls on wind stick assemblies.

18 Q Did you receive any instructions from Mr. Polley as
19 the result of the reduction in force?

20 A Yes, sir.

21 Q When did you receive those, approximately?

22 A I don't remember dates. I think in May sometime.

23 Q What were those instructions?

24 A That we would have to reduce the quality audit force
25 on night shift by one person.

1 Q Did he make any suggestions as to how this was to be
2 done or any instructions as to how this was to be done?

3 A To my remembrance, no.

4 Q Did you carry out the reduction in force?

5 A Yes.

6 Q How was this accomplished?

7 A By, as I say I carried it out, I discussed this with
8 Mr. Payne and we carried it out by seniority.

9 Q Who was the least in seniority at that time?

10 A Mrs. Robbins.

11 Q Did you talk with her, Mr. Parish?

12 A Yes, sir.

13 Q When was that?

14 A I don't remember dates. It was on the start, if I
15 remember it correctly it was on the start of a shift following
16 the instructions to reduce the force.

17 Q Where did you talk with Mrs. Robbins?

18 A In my office which is in the production office.

19 Q Was anybody else there at the time?

20 A Mrs. Payne.

21 Q What was said, Mr. Parish, by you or Mr. Payne or
22 Mrs. Robbins at that time, to the best of your recollection?

23 A I explained to Mrs. Robbins the necessity for reducing
24 the quality audit force and that she being the least in
25 seniority would have to give up her position as stick contact

1 audit; at the time we could of course offer her around stick
2 winding.

3 Q Did you have a position open in stick winding?

4 A That is correct.

5 Q Was anything else said to Mrs. Robbins at that time
6 do you recall?

7 A I don't recall any specifics. We talked about this
8 particular thing.

9 Q What did Mrs. Robbins say?

10 A She was agreeable to take the job as stick winder rather
11 than leave the employ of the company.

12 Q Was that the end of the conversation?

13 A I believe so.

14 Q What was the next step in carrying out this reduction,
15 Mr. Parish?

16 A Mr. Payne and I returned Mrs. Robbins to her job and
17 we called in the other three girls.

18 Q Was this the same night?

19 A That's right.

20 Q Who came in?

21 A Anna Branam, Rita Clemmons and Reva Robertson.

22 Q Were you there at the time?

23 A Myself and Mr. Payne.

24 Q Was anybody else?

25 A No.

1 Q Mr. Parish, what was said by you or the others, to the
2 best of your recollection, at that time?

3 A Essentially what we told Mrs. Robbins that it was
4 necessary to reduce the quality audit force by one person and
5 that Reva Robertson in line with her seniority right would be
6 eligible to take the stick contact audit operation.

7 Q Was she the next least in seniority?

8 A Yes, sir.

9 Q What was said following that? Did Mrs. Robertson say
10 anything?

11 A As I recall Mrs. Robertson expressed reluctance to
12 accept the job as stick contact girl.

13 Q What did she say that you recall?

14 A That she had health conditions which precluded her
15 working in that area and that she didn't feel she could accept
16 the job.

17 Q Had you been aware of her condition?

18 A That is correct. I was aware of it before.

19 Q How had you become aware of it?

20 A Through a doctor's statement. Sometime preceding this
21 it was necessary to train a person to the stick contact audit
22 for absenteeism and being an extra in the wind stick audit she
23 was the natural choice to take this as the training operation
24 sort of fill-in for absenteeism in case Miss Robbins was
25 absent.

1 Q Approximately when was this?

2 A I don't recall. Shortly after her employment but I
3 don't recall.

4 Q Did she bring in a doctor's statement as a result of
5 her --

6 A (interrupting): Yes, she did.

7 Q What further was said at this conference with the three
8 coil winder quality girls that night?

9 A Mrs. Robertson expressed extreme reluctance to accept
10 the quality audit on stick contact machines because of her
11 health condition as was her general comment and so she was
12 informed that she would have the opportunity to take a machine
13 winding operation.

14 Q Did you inform her of that?

15 A Yes.

16 Q What was her reply to that?

17 A She was reluctant to accept it.

18 Q What did she say?

19 A I don't recall her exact words. Her general comment
20 was, my impression was she felt she couldn't do the job.

21 Q Did she mention anything about quitting?

22 MR. MERCER: Mr. Trial Examiner, I am going to have
23 to object to these impressions. I think --

24 TRIAL EXAMINER (interrupting): Tell us what she
25 said as best as you recall it.

1 THE WITNESS: The best I can recall is she said she
2 couldn't do the job.

3 BY MR.. HILL:

4 Q Did she mention anything about quitting at that time,
5 Mr. Parish?

6 A Yes.

7 Q What did she say?

8 A She felt if she had to take the machine operation job
9 that she might quit.

10 Q Was there anything further said?

11 A Yes, sir.

12 Q What was that?

13 A I tried to prevail upon her to try the machine operation
14 job.

15 Q Mr. Parish, let me interrupt you for a moment. Something
16 that witnesses find difficult in a situation like this is to
17 stick with relating facts. Mr. Mercer I think is getting ready
18 to rush an objection.

19 Rather than stating that you prevailed upon her, please
20 tell us what you did tell her, as best as you can recollect.
21 You don't need the exact words.

22 A To the best of my recollection I asked her to try the
23 machine winding job that I felt she could do it, learn to do
24 it.

25 Q What was her reply to that?

1 A She was still reluctant to try it.

2 Q Did she say she wouldn't? What did she say?

3 A She gave me no definite answer at that time.

4 TRIAL EXAMINER: What did she say? What is the best
5 you can recall was her answer?

6 THE WITNESS: She wanted to call me back the next day
7 and let me know, as best as I recall.

8 BY MR. HILL:

9 Q Did you agree to this?

10 A Yes, sir.

11 Q Was there any further discussion that evening?

12 A The discussion was carried on further on the same vein.

13 Q Did she go home early that evening, do you recall?

14 A Yes, she did.

15 Q Did she request to go home early?

16 A Yes, she did.

17 Q Did she state why?

18 A As I recall she felt she was nervous and upset and
19 couldn't finish the shift.

20 Q Mr. Parish, did you have an opportunity to talk with
21 Reva Robertson the following day?

22 A On the telephone, yes, sir.

23 Q Did she call you?

24 A I believe she called me in the morning.

25 Q What conversation took place at that time, what did you

1 say and what did she say, as best as you recall?

2 A As best as I recall she asked if she must still take
3 the machine operator's job and as best as I recall I asked
4 for a delay so I could talk to Mr. Polley.

5 Q Did you talk to her later that day?

6 A Yes, sir.

7 Q Did you call her at this time?

8 A Yes, I did.

9 Q Did she call you?

10 A I called her.

11 Q What was said at that time?

12 A I told her that the situation that she would be asked
13 to take the machine operator's job if she couldn't work in
14 the stick contact audit.

15 Q What did she say?

16 A She said she would quit, she would leave our employ.

17 Q Was this the end of the conversation?

18 A I believe so, yes, sir.

19 Q Mr. Parish, was your normal procedure for a reduction
20 in force followed in this case?

21 A Yes I believe it was.

22 Q Was there anything outside of seniority that was
23 considered in making this reduction?

24 A To my knowledge, no.

25 Q Did you have any additional opportunity to talk with

1 Mrs. Robertson?

2 A I don't remember anything else, sir.

3 Q Did you proceed to make out termination papers for her?

4 A Yes, sir.

5 Q How did you do that or where?

6 A Termination papers are typed up by our clerical help
7 and I signed them in the production office in my office.

8 Q Did you do so, I mean, were directions given for such
9 papers?

10 A Well, upon receiving her firm decision to quit, why, I
11 sent through the, I started the necessary mechanism to have
12 the papers made out.

13 MR. HILL: You may cross-examine.

14 CROSS-EXAMINATION

15 BY MR. MERCER:

16 Q Mr. Parish, do you remember what you put on those
17 papers, those termination papers?

18 A No, I don't recall exactly.

19 Q Do you really recall exactly what she said to you over
20 the phone when you called her the last time?

21 A I don't recall exactly. I recall the general theme.

22 Q Wasn't her general theme, Mr. Parish, that she couldn't
23 take either one of these jobs?

24 A She couldn't accept the stick contact audit and that she
25 didn't want to try the automatic, I'm sorry, the stick winder.

1 Q When you say she quit, aren't you giving us the
2 conclusion that you drew from your conversation with her?

3 A I'm sorry, I didn't understand you.

4 Q When you tell us she quit, aren't you giving us a
5 conclusion you drew from the conversation you had with her?

6 A No. She told me that she would quit.

7 Q Do you remember her specifically saying that?

8 A I believe I do, sir.

9 Q Are you sure about that?

10 A I'm sure. She said she would quit rather than operate
11 the machine.

12 Q Tell me everything she said in the conversation.

13 A I can't remember everything she said in the conversation.

14 Q You can remember this one word?

15 A Yes.

16 Q Well, I represent to you she has testified here, she
17 has testified under oath that she told you she did not do
18 either one of these jobs and that you asked her, "Well, are
19 you terminating?" and she said, "Well, I can't do them" or
20 words to that effect and you said, "Okay" and hung up.

21 A I don't recall those exact actions. It's possible I
22 asked her if she was terminating her employment.

23 Q You did ask her if she was terminating her employment?

24 A That's possible, yes.

25 Q Is it possible that in response to that she told you,

1 "Well I can't do either one of them"?

2 A I don't recall her saying this.

3 Q Is it possible she did say that?

4 A It's possible, yes.

5 Q Is it possible you then thanked her and hung up?

6 A It's possible, yes, sir.

7 Q Mr. Parish, generally don't you work on days?

8 A Yes, sir.

9 Q When you are there at nights is this usually for a short
10 time?

11 A That is correct.

12 Q Do you hang over for sometime in the evening to talk
13 to the night people?

14 A My regular time ends at four and I usually stay to talk
15 to them.

16 Q Now, there isn't any quality foreman or supervisor or
17 whatever you want to call it that actually is stationed on
18 the night shift, is there, sir?

19 A That's correct.

20 Q You do have quality people on the day shift, don't you?

21 A Yes, sir.

22 Q How many quality people do you supervise on the day
23 shift?

24 A How many quality people?

25 Q Yes.

1 A I don't know the exact number. Oh, possibly 35 or 40
2 all together. This is just quality. My departments are
3 representative functions.

4 Q I am talking about people who do quality audit types
5 of jobs, various departments.

6 A There's possibly 35 or 40.

7 Q Do you know, Mr. Parish, if all of these 35 people
8 had more time with the company than Mrs. Robertson did when
9 all this happened?

10 A I don't know that all of them had, no, sir.

11 Q Don't you think, Mr. Parish, that it would have been
12 proper if you people followed seniority for you to have checked
13 that out to see if she would have a right to a job by
14 seniority that you are so strict about?

15 A Perhaps.

16 Q But you did not do it, did you, sir?

17 A I don't recall talking about the overall list
18 seniority.

19 Q You didn't talk about the seniority list at all with
20 the day people, did you, Mr. Polley?

21 A No, sir, not that I recall, sir.

22 MR. MERCER: No further questions.

23 REDIRECT EXAMINATION

24 BY MR. HILL:

25 Q Mr. Parish, you testified it was possible that you asked

1 Mrs. Robertson if she were terminating herself, and do I
2 understand your testimony that, to the best of your recollection,
3 she said she was quitting?

4 MR. MERCER: I will object.

5 MR. HILL: What is your best recollection?

6 TRIAL EXAMINER: Just a minute.

7 You may answer. What is your best recollection as to
8 what she said about termination or quit?

9 THE WITNESS: To the best of my recollection she would
10 quit.

11 MR. HILL: No further questions.

12 TRIAL EXAMINER: Thank you. That is all.

13 (Witness excused)

14 MR. MERCER: Sir, could we break just a moment?

15 TRIAL EXAMINER: We will take a five minute recess.

16 (A recess was taken.)

17 TRIAL EXAMINER: The proceeding will be in order.

18 MR. HILL: Ann East.

19 ANNA B. EAST

20 a witness called by and on behalf of the Respondent, being
21 first duly sworn, was examined and testified as follows:

22 TRIAL EXAMINER: Give your full name and address please
23 and speak up.

24 THE WITNESS: Anna B. East, 4030 Stoutes Creek Road.

25 DIRECT EXAMINATION

1 BY MR. HILL:

2 Q Miss East, speak up nice and loud so we can all hear
3 you now.

4 Q Do you work for Sarkes Tarzian?

5 A Yes, sir.

6 Q How long have you worked for that company?

7 A Approximately 15 years.

8 Q What is your current job, Mrs. East?

9 A Line operator.

10 Q Your present job?

11 A Administrator production assistant.

12 Q Do you work in the production office?

13 A Yes, sir.

14 Q Have you held other jobs with the company?

15 A Yes, sir.

16 Q What are some of those jobs?

17 A Line operator, group leader, assistant foreman.

18 MR. DONNENFELD: What was that second job?

19 THE WITNESS: Group leader.

20 BY MR. HILL:

21 Q Mrs. East, what briefly are your duties in the production
22 office? If you can state them briefly.

23 A Well, I keep a daily inventory of our personnel on the
24 floor.

25 I post the scheduling to see whether the required amount

1. is met.

2. I check efficiency daily and with help I assign girls
3. to production lines, test line and shop.

4. Q Whose help do you get?

5. A Mr. Polley, Mr. Hamric, Mr. McHenry, Mr. Parish.

6. Q Would it be your job to schedule reassignments when a
7. line is dissolved?

8. A Yes, sir.

9. Q Do you recall an instance in April of this year when
10. line 8 was dissolved?

11. A Yes, sir.

12. Q Do you recall making reassignments on that line?

13. A Yes, sir.

14. Q Can you tell me what process you used in making the
15. reassignments?

16. A As I stated I have a floor inventory, I know what is
17. short, and then I get with these foremen to find out exactly
18. what operations they work and from there we take the girls from
19. line 8 and we assign them. If the operation wasn't saved they
20. went to the production line that their operation was opened on.

21. Q Do you try to match them up with the same job then?

22. A Yes.

23. Q Were you able to match up all of the line 8 girls with
24. jobs upon which they had previously performed?

25. A No, sir. About 9 of them.

1 Q About 9 of them were assigned to the same job?

2 A To the same job they were doing on line 8.

3 Q Then what did you do with the balance of the girls,
4 how did you make their assignment?

5 A Well, if they did crimp we tried to keep them on crimp.
6 If they did soldering we tried to keep them on solder and if
7 their operation wasn't similar we still had to assign them.

8 Q Were you able to assign all the girls?

9 A No, sir, we weren't.

10 Q Did you have some extras Mr. Polley referred to?

11 A Yes we did. We had about 12.

12 Q Twelve extras?

13 A Six of these were going to quit and there was no use
14 to assign them and the other six we'd say were repair, stock,
15 and two of them waited to have their pattern checked out.

16 Q Did the six girls quit?

17 A Yes, they quit. Two of them had already quit.

18 Q Now Agnes Felty I believe was on line 8, the dissolved
19 line?

20 A Yes.

21 Q What assignment did you make with regard to Agnes?

22 A I assigned her to production line 4.

23 Q On what job?

24 A As an all crimp job.

25 Q At the time you made that assignment, Mrs. East, were

1 you aware of Mrs. Felty's problem of solder fumes?

2 A Yes.

3 Q Had you been aware of her previous doctor's statements?

4 A Yes.

5 Q Did that play any part in the assignment of Mrs. Felty?

6 A That's why she was assigned to the crimp job.

7 Q Now tell us how the assignments were distributed
8 beginning on the day that line 8 was dissolved, how are people
9 made known of their new assignments?

10 A We have a card and it has their name listed, their
11 clock number, the line they are working on at that time, the
12 line they are going to be assigned to. This is given to the
13 foreman and the assistant foreman on that line.

14 Q On the new line?

15 A No, on the old line, the line that they are working on.
16 They in return give these to the co-workers and this
17 tells them where they are to report the next morning.

18 Q What was the last date that line 8 operated?

19 A April 18.

20 Q What day of the week was that?

21 A This was on a Monday.

22 Q When were the new assignments to become effective then?

23 A On the nineteenth.

24 Q Mrs. East, did you have an occasion to talk with Agnes
25 Felty on the nineteenth?

1 A Yes.

2 Q Approximately what time of that day?

3 A Well, now, that morning at 7:00 o'clock --

4 Q (interrupting): Where were you?

5 A I went out to check the production line to see if these
6 assignments were being made and she told me at this time she
7 had a machine pattern.

8 Q Where were you when she told you this, do you recall,
9 to the best of your recollection?

10 A I imagine around the production line 4 or 5, somewhere
11 in that area.

12 Q What did she say?

13 A She said, "Ann, I have a machine pattern." And I said,
14 "Aggie, you've got a crimp and solder." And she told me in
15 personnel. I said, "I'm sorry but I have nothing on that,
16 Mr. Polley has to make machine operators."

17 Q What happened?

18 A I went on across the floor. Mr. Young brought her
19 into the office shortly after that.

20 Q Were you in the office when Mr. Young brought her in?

21 A Yes.

22 Q Did you participate in any further conversation with
23 Mrs. Felty that morning?

24 A Well I talked with her and Mr. Young both.

25 Q What^{was}/said at that time?

1 A He stated that she informed him she had a machine
2 pattern and so I told him we'd take care of it. Mr. Young
3 went back to the floor and I asked Agnes who sat in the outer
4 office that Mr. Polley was ready to talk with her.

5 Q Did she talk with Mr. Polley?

6 A To my knowledge, yes.

7 Q Were you present?

8 A No, sir.

9 Q Did you have any further occasions to talk with Mrs.
10 Felty that day? This is the nineteenth, on Tuesday.

11 A Yes. The twentieth she came to my office again.

12 Q Is this on the twentieth?

13 A Yes, sir.

14 Q The following day?

15 A Yes.

16 Q Go ahead.

17 A And said again she was having difficulty. And I asked
18 her again if she would care to wait until Mr. Polley came in
19 which she did.

20 Q Were you present when Mr. Polley talked with her?

21 A No, sir, I wasn't.

22 Q Did you talk to her any further that day, on the
23 twentieth?

24 A No.

25 Q Did you talk to her the following day, the twenty first.

1 Thursday?

2 A Yes. She called in to the office Thursday and I talked
3 with her.

4 Q What did she say?

5 A She stated she was having this respiratory problem
6 and she was going to the doctor Thursday afternoon and I
7 informed her I would tell Mr. Young her foreman.

8 Q Did you have any opportunity to talk with her the
9 following day, on Friday?

10 A Yes. On Friday she called in.

11 Q Tell us what was said.

12 A She had to report to the doctor Saturday afternoon
13 and she would be unable to come in and again I told her I
14 would inform Mr. Young, the foreman.

15 Q Did you talk with Mrs. Felty the following Monday?

16 A Yes. She did come to the production office and she
17 had a doctor's statement with her.

18 Q Did she show you that statement?

19 A Yes, she did. Again I had her wait until Mr. Polley
20 was able to get with her.

21 Q I hand you what has been received in evidence as
22 General Counsel's Exhibit 7 and ask you if this is a copy of
23 the doctor's statement which Mrs. Felty handed to you that
24 Monday morning?

25 A Yes, it is.

1 Q Mrs. East, were there any open machine operator pattern
2 jobs on April 19, 1966?

3 A Not a permanent opening. We have one temporary opening
4 on line 4.

5 Q On line 4?

6 A Yes, sir.

7 Q Was this the line that Agnes was assigned to?

8 A Yes.

9 Q What was the temporary opening?

10 A We had an operator, a co-worker that had a back injury
11 and had to be taken off the job for two weeks.

12 Q What was her name?

13 A Dorothy Kinser.

14 Q What position on the line was this?

15 A This was the third operation on base sub or your rivet
16 base, whichever you want to call it.

17 Q Whom did you assign to that?

18 A Margaret Hopkins.

19 Q Had she been on line 8?

20 A Yes. She carried this same operation on line 8.

21 Q Number 3 operation?

22 A Yes.

23 Q Base sub?

24 A Yes.

25 Q This was a temporary assignment?

1 A Yes, sir.

2 Q Did Dorothy Kinser return to work?

3 A Yes, she did.

4 Q Do you know how long it was she was off?

5 A It was two weeks.

6 Q Did you have any permanent machine operator jobs
7 which were unfilled on April 19, 1966?

8 A Not to my knowledge.

9 MR. HILL: You may cross-examine.

10 CROSS-EXAMINATION

11 BY MR. MERCER:

12 Q Mrs. East, is it Miss East?

13 A Yes.

14 Q You assigned a lady by the name of Hopkins. I did not
15 catch her first name.

16 A Margaret Hopkins.

17 Q Margaret Hopkins. You assigned her to this rivet job?

18 A Yes.

19 Q Rivet base. This is a machine operator's job?

20 A Yes, sir.

21 Q Isn't it true, Mrs. East, that this Margaret Hopkins had
22 only worked for the company a very short time?

23 A Yes, it is. But she also had this same job on line 8
24 and no extra training, no extra cost to move her over there
25 for two weeks.

1 Q I did not ask you that.

2 I will ask you again: Isn't it true she had only been
3 there a short time?

4 A Yes, sir.

5 Q Perhaps she had been there much less than a year?

6 A I imagine about six months.

7 Q Mrs. East, Mrs. Felty had done those rivet jobs, hadn't
8 she?

9 A One, the first operation.

10 Q But she had done it, hadn't she?

11 A Yes.

12 Q And had done a good job?

13 A Yes, she did.

14 Q Now, Mrs. East, you mentioned when they broke up line
15 8 that they were able to match about 9 girls, did I get that
16 right?

17 A Yes, sir.

18 Q How many were you unable to match?

19 A Twelve of them.

20 Q Now how did you decide which you would assign, how did
21 you decide which you match and which would remain unmatched?

22 A Well, we take the girls that had been with the company,
23 we'd say, that have done crimp and solder and have been moved
24 from one line to another and we would try to place them on
25 similar type jobs, like for instance, crimp, even though they

1 hadn't been on the job before they had crimp knowledge and
2 we would try to put them on crimp.

3 Q Did you make a point of determining whether or not
4 the 9 that you matched up with similar jobs were the 9 most
5 senior?

6 A No, sir, we didn't.

7 Q Did you make any attempt to determine precisely what
8 the seniority standing was among those 21 people?

9 A No, sir, they had a job to do if they wanted to do it.

10 Q My question again is: Did you make any attempt to
11 determine the seniority of the 21 people?

12 A No.

13 MR. MERCER: No further questions.

14 MR. HILL: No questions.

15 TRIAL EXAMINER: That is all. You may step down.

16 MR. HILL: Thank you, Mrs. East.

17 (Witness excused)

18 MR. HILL: Vance Young.

19 VANCE A. YOUNG

20 a witness called by and on behalf of the Respondent, being
21 first duly sworn, was examined and testified as follows:

22 TRIAL EXAMINER: Give us your full name and address
23 please.

24 THE WITNESS: Vance A. Young, Route 3, Bloomington,
25 Indiana.

DIRECT EXAMINATION

1
2 BY MR. HILL:

3 Q Mr. Young, I know that you are wearing quite a brace.
4 If it becomes uncomfortable or anything let us know and we
5 will take a break.

6 A It's all right.

7 Q Are you employed by Sarkes Tarzian?

8 A I am.

9 Q When were you employed by that company?

10 A 1947.

11 Q What is your current job with the company?

12 A Line foreman.

13 Q When did you begin that work?

14 A Oh, I'd been there at least, somewhere between 10,
15 15 years. I don't know exactly when.

16 Q Speak up so we can hear you.

17 A All right.

18 Q Mr. Young, calling your attention to April 19 of 1966,
19 what was your job at that time?

20 A Line foreman.

21 Q Over what lines?

22 A Line 4, 5 and 6.

23 Q On that date April 19, 1966, did you receive new
24 employees on line 4, reassigned employees?

25 A I did.

1 Q Was Agnes Felty among them?

2 A She was.

3 Q Do you know to what job Agnes Felty had been assigned?

4 A It's a crimp job.

5 Q On line 4.

6 A Right.

7 Q Can you tell us very briefly what work went into that
8 job?

9 A It consists of two small wires wrapped around a pin
10 with a sleeve on it and wire dressing put them up against the
11 components.

12 Q Who was your assistant foreman at that time?

13 A La Verne Banks.

14 Q Did you have an occasion on that morning to speak
15 with Agnes Felty?

16 A That is difficult to answer directly because I don't
17 recall. I don't know whether she reported directly to me
18 directly or whether she went to the line and reported to
19 Carrie directly, so I can't --

20 Q (interrupting): Did you talk with her that morning?

21 A I talked with her that morning.

22 Q What's what I want. Where did you talk with her?

23 A Somewhere between the line. I don't know where I was
24 at whether I was at my desk or whether it was somewhere on
25 the line or where it was but it was on the floor.

1 Q What time was that?

2 A Oh, it was around, maybe five, ten minutes after seven.

3 Q In the morning?

4 A In the morning.

5 Q Do you recall what was said by Mr. Felty and you at
6 that time, Mr. Young?

7 A As near as I can recall she made the statement that
8 she was a machine operator and I immediately took her to the
9 office.

10 TRIAL EXAMINER: You immediately what?

11 THE WITNESS: Took her to the office.

12 BY MR. HILL:

13 Q Whose office was that?

14 A Production office.

15 Q Is Mr. Polley in the production office?

16 A He's in one of them and Ann is in the other one.

17 Q Did you hear any conversation between Mrs. Felty and
18 Mr. Polley that morning?

19 A No.

20 Q Did you receive a call from Mr. Polley that morning?

21 A I don't recall whether it was that morning especially
22 the same morning she reported to the line but or whether it
23 was the next day, but I probably did receive a call from her.

24 Q I mislead you with the question I believe.

25 Let me drop that and ask you if Mrs. Felty worked on

1 your line April 19, the first day of her assignment?

2 A Yes.

3 Q Following her conversation with Mr. Polley did she
4 work on the line?

5 A Repeat that again please.

6 Q On April 19 which was Mrs. Felty's first day on your
7 line, following her talk with Mr. Polley did she come out and
8 work?

9 A Right.

10 Q Did she work all day that day?

11 A Yes, I think she did.

12 Q Now the following day, did you have any occasion to
13 talk with Agnes Felty in the morning?

14 A I can't recall. I really don't think she reported
15 on the line. I think she immediately went to the office
16 around seven. I'm not sure.

17 Q Did you later receive a telephone call from Mr. Polley
18 about Mrs. Felty?

19 A I received a telephone call but whether it was that
20 specific time or not I don't know.

21 Q Was it Mr. Polley?

22 A It was from Mr. Polley.

23 Q What did Mr. Polley say?

24 A He wanted me to get her a fan.

25 Q Where are those fans available?

- 1 A In a tool crib.
- 2 Q Did you get a fan?
- 3 A Where I got it or where I sent my assistant foreman
- 4 I don't recall.
- 5 Q Did someone give her a fan?
- 6 A Someone did get the fan.
- 7 Q Are fans in general use on the lines?
- 8 A Yes, quite often in some places.
- 9 Q Who uses the fans?
- 10 A Generally it's the solder girls that use the fans.
- 11 Q How do they normally place the fans on the line?
- 12 A It's set up in the method of engineering where if you
- 13 have so many solders you get an extra fan to help take care
- 14 of the fumes.
- 15 Q How do they physically place the fans on the line?
- 16 A They're set on the table.
- 17 Q What is the purpose of doing that?
- 18 A To help eliminate the fumes from going in and so the
- 19 girls can breathe.
- 20 Q Do the girls adjust the fans to take care of this?
- 21 A Yes, they do.
- 22 Q How do they normally adjust them, in what position?
- 23 A Well, to suit themselves. If they want it up or if
- 24 they want it sideways they turn it sideways, whichever way
- 25 they want.

1 Q Do most of them have it go up or sideways?

2 A Most of them turn them up.

3 Q Did Mrs. Felty get a fan that day?

4 A She did.

5 Q She was on a crimp job?

6 A Right.

7 Q Do crimp operators normally have fans?

8 A Not necessarily.

9 Q Is it somewhat unusual in your experience or not?

10 A It is. Right.

11 Q Did you place the fan on the line?

12 A No, I don't think I did. I might have set it down but
13 as far as placing it or adjusting it, no.

14 Q Do the other girls along there have something to put
15 the fans on?

16 A Generally they put up an empty box of some sort to level
17 it up to a high place on the tables or lean them against the
18 post.

19 Q Are there posts or brackets against which they can
20 place the fan?

21 A Right.

22 Q Did you say they use boxes?

23 A Generally yes.

24 Q Mr. Young, I hand you what has been marked for
25 identification as Respondent's number 8 and ask you to examine

1 that.

2 Have you ever seen that box before?

3 A Yes, sir.

4 (The item referred to above was
5 marked Respondent's Exhibit No. 8
for identification.)

6 BY MR. HILL:

7 Q Where did it come from?

8 A It comes right across the line from where they work.

9 Q On what line?

10 A On line, either line, it can be on line 4 or line 3.

11 Q Where did that come from?

12 A Well, now, I don't know.

13 Q Were you on line 4 this morning and took that off?

14 A Right.

15 Q Was this taken right off of line 4?

16 A This was taken off of line 4, yes.

17 Q Is this the type box that you say the girls normally
18 use?

19 A Right.

20 Q Are there a number of those boxes up and down the line
21 with fans on them?

22 A Yes, there's quite a few of them.

23 Q Where did that particular box come from, if you know,
24 prior to its being on the line?

25 A That I couldn't, I know it come off the floor but I

1 don't know exactly in what particular spot it was on the floor.

2 Q Is this a parts box?

3 A It's a parts box that we use for the contacts in them.
4 They use them right across the table from where they work.

5 Q Are these generally available to the girls?

6 A Yes they are available.

7 Q Were they generally available and around the floor on
8 April the twentieth, 1966?

9 A Yes. They use them daily and empty one out quite often,
10 so they generally just take them on the floor.

11 MR. HILL: Respondent offers in evidence Respondent's
12 Exhibit 8.

13 Can I ask him a question?

14 TRIAL EXAMINER: Go ahead.

15 MR. HILL: Do the girls use other size boxes besides
16 this?

17 THE WITNESS: Yes, they do. There's odd boxes used.

18 MR. MERCER: I object. They use other size boxes. I
19 don't know what this proves.

20 I am going to agree they use cardboard boxes but I
21 don't think that is a typical example because they use different
22 size boxes. I don't know what it proves at all.

23 MR. HILL: It may not be exactly like it but he has
24 testified that boxes similar to this are used for fans up and
25 down the line and are generally available on the floor, they

1 are parts boxes.

2 TRIAL EXAMINER: I think it may be received but can't
3 we stipulate it is a cardboard box about the size, a little
4 smaller than the average cigar box that holds 50 cigars
5 instead of --

6 MR. HILL (interrupting): I will be willing to stipulate.

7 MR. MERCER: I so stipulate.

8 TRIAL EXAMINER: Then do you withdraw Exhibit 8?

9 MR. HILL: Maybe we can stipulate that Exhibit 8 to
10 which Mr. Young referred is a corrugated box about, oh, 9 by
11 3 by two and a half?

12 MR. MERCER: It is all right with me.

13 TRIAL EXAMINER: That is a pretty good description.

14 MR. HILL: And we stipulate that when he referred to
15 exhibit 8 he referred to our description rather than placing
16 the actual box in evidence.

17 MR. MERCER: It is so stipulated.

18 TRIAL EXAMINER: The physical exhibit is withdrawn,
19 Exhibit 8.

20 (The item heretofore marked
21 Respondent's Exhibit No. 8 for
identification was withdrawn.)

22 BY MR. HILL:

23 Q Mr. Young, on April 20, this is the second day now that
24 Mrs. Felty worked on your line, did she work all day?

25 A That's hard for me to say, I don't really know whether

1 mean, I just merely put it on the table to give it to her.

2 Q Do you remember whether or not she plugged it in?

3 A That I couldn't answer.

4 Q Do you remember whether or not you made any adjustments
5 at all?

6 A I don't generally make adjustments on the fan for anyone.

7 Q That is not my question, sir. I am asking you whether
8 or not you remember this point, whether you did or not?

9 A No, I did not.

10 Q Do you remember or not whether you gave her a box,
11 a cardboard box of any size?

12 A No, sir, I did not.

13 Q Do you remember whether or not, well, isn't it true, sir,
14 normally the girls do use boxes to put these fans on?

15 A Normally if they're to sit on the table, normally, yes.

16 If they're against the post, no. And some of them do
17 not use any boxes or place them against the post they turn
18 them around so they sit on that little rib that goes down the
19 side of it.

20 Q Did she have a post there to use, Mrs. Felty that
21 morning?

22 A I think she had one on her left or on the right rather.
23 There's one here and then another one, there's two posts
24 and then you got one here and one there.

25 Q Do you remember that for certain, sir?

1 A Do you mean whether the post was there?

2 Q Yes. That morning. That spot you were talking about.

3 A Yes. Well she has to be between the post on the right
4 or left. It's impossible not to be.

5 Q But you don't remember which side of the post it was on?

6 A I don't remember exactly whether she was sitting to the
7 left of one post or to the right of the other or where she
8 was.

9 In other words, we have a post here and then you have
10 a post on here and you have one there and another post there.

11 I don't remember whether it was sitting here or here,
12 this post or that post.

13 Q In other words, you don't remember the exact spot on
14 the line?

15 A No.

16 Q Do you remember La Verne Banks saying anything to you
17 about Mrs. Felty having trouble with that fan that morning?

18 A No, sir. I don't remember anything said about that.

19 Q Do you remember Mrs. Felty leaving that morning?

20 A Do you mean in the morning when she was assigned to
21 the line?

22 Q No. I mean April twentieth, the day of the fan. I
23 am on the day of the fan not any other day.

24 A Well, the specific time she left I couldn't because
25 normally I'm not down on the line all the time.

1 Q Do you remember seeing her leave?

2 A Well I don't recall.

3 Q Do you recall whether or not, do you recall who replaced
4 her on the line when she left that day?

5 A The regular procedure is --

6 Q (interrupting): I am not asking for any procedure, Mr.
7 Young. I am asking if you remember that morning what
8 happened, do you remember who replaced her that morning?

9 A No. I mean, I can't say which one replaced her but
10 she was replaced, yes.

11 Q Do you remember what person replaced her?

12 A Well, that's the same question. I can't answer that.
13 I don't know exactly which one it was.

14 Q Do you recall what time of the day she left?

15 A I wouldn't know the exact time. I can't say.

16 Q Do you recall starting at 7:00 o'clock and how long she
17 worked that day?

18 A Are you referring back to the first day?

19 Q No. I am not discussing anything with you but the
20 day of the fan.

21 A The day of the fan.

22 Q That's right.

23 A Give me the question again.

24 Q Do you recall how long she worked that day before you
25 noticed that she was no longer on the line?

1 A No I can't.

2 Q You did tell me you remember placing that fan on the
3 table, I mean, putting it down on the table, do you remember
4 that?

5 A Yes, putting it on the table.

6 Q Now from where you put the fan on the table, where was
7 Mrs. Felty in relation to that?

8 A I assume she was in her work station.

9 Q Was the fan pointing in her direction, was it pointed
10 at her back, was it pointing at her side?

11 A Well, normally --

12 Q (interrupting): I am not asking normally.

13 I am only asking you what you remember that day when
14 you put the fan -- I am testing your memory on this now.

15 When you placed that fan there do you remember in
16 what position it was in, was it pointed toward her face, toward
17 the back of her head or toward her side?

18 A That I couldn't say because it wasn't running so I
19 don't know which way I put it down.

20 Q Whether it was running or not do you remember which way
21 you put it down?

22 A No, I don't.

23 MR. MERCER: I have no further questions.

24 REDIRECT EXAMINATION

25 BY MR. HILL:

Q Mr. Young, how many lines do you cover?

1 A I have three lines.

2 Q Did you have three lines in April?

3 A Yes, I did.

4 Q How many girls roughly are under your supervision?

5 A Somewhere in the neighborhood of pretty close to,
6 I'll make a rough guess, pretty close to 200.

7 TRIAL EXAMINER: Did you say close to 100 or close to
8 200?

9 THE WITNESS: Close to 200.

10 MR. HILL: I think that is all.

11 RECROSS-EXAMINATION

12 BY MR. MERCER:

13 Q How close is it to 200?

14 A Well, let's see, I think there was somewhere in the
15 neighborhood of 60, around 180.

16 Q About 180. Is that typical, Mr. Young?

17 A Normally the line would run somewhere between 50 and
18 60 operators. Right.

19 Q Per line, and three lines, in other words you would
20 range between 150 and 180 people?

21 A Closer to a hundred and eighty.

22 Q But at least 150 and a maximum of around 180?

23 A Right.

24 Q Do you have an assistant foreman who helps you?

25 A I have three assistant foremen.

1 Q One assistant foreman for each line?

2 A Right.

3 Q Do you remember the name of the assistant foreman on
4 Mrs. Felty's line?

5 MR. HILL: Objection. Outside the scope of redirect.

6 I asked him one question, how many lines he had and how
7 many girls.

8 TRIAL EXAMINER: You may answer.

9 BY MR. MERCER:

10 Q Do you remember the name of the assistant foreman on
11 Mrs. Felty's line on the day of the fan incident, April 20?

12 A La Verne Banks.

13 MR. MERCER: No further questions.

14 MR. HILL: That is all. Thank you.

15 (Witness excused)

16 MR. HILL: Grace Porter.

17 GRACE A. PORTER

18 a witness called by and on behalf of the Respondent, being
19 first duly sworn, was examined and testified as follows:

20 TRIAL EXAMINER: Give us your full name and address
21 please.

22 THE WITNESS: Grace A. Porter, Route 2, Spencer, Indiana.

23 DIRECT EXAMINATION

24 BY MR. HILL:

25 Q Are you employed by Sarkes Tarzian?

1 A Yes, I am.

2 Q How long have you been employed by that company?

3 A Seventeen years.

4 Q What is your current job?

5 A I work in machine shop number two on night shift.

6 Q What is your job in machine shop two?

7 A Run a contact stick machine.

8 Q When did you begin this job?

9 A A week tomorrow night.

10 Q What job did you hold prior to that?

11 A Assistant foreman.

12 Q In what department?

13 A Night shift, stick winding.

14 Q How long did you hold that job as assistant foreman,
15 night shift, stick line?

16 A Six months.

17 Q When did you begin as assistant foreman on the night
18 shift?

19 A It was the first of March, the middle of March.

20 Q The first or middle of March of this year?

21 A Yes, sir, 1966.

22 Q Mrs. Porter, calling your attention to April of 1966,
23 were you assistant foreman at that time?

24 A Yes, I was.

25 Q Do you recall a time in April of this year when you

1 talked to group leaders about maintenance men?

2 A Yes.

3 Q Did you talk to all the group leaders?

4 A Yes.

5 Q Who were the group leaders to whom you talked?

6 A Emily White, Margaret Brothers and Sharon George.

7 Q Are these all the group leaders on the night shift,
8 stick winding, or were they all of them at that time?

9 A We had another one Roberta Miller.

10 Q Where was her job at that time?

11 A She was a group leader on the line also.

12 Q Did you talk to the group leaders in a group or
13 individually?

14 A Individually.

15 Q Had there been any talk by Mr. Payne to the maintenance
16 men that evening?

17 A Yes.

18 Q Prior to the time you talked to the group leaders?

19 A Right before I talked to the group leaders.

20 Q Now you said that one of the group leaders was Emily
21 White?

22 A Yes.

23 Q Do you recall where you talked with her?

24 A Most generally when I talked to the group leaders, when
25 Mr. Payne told me to go to the group leaders to tell the

1 group things I talked to them at a table which we call the
2 color code table.

3 Q Did Mr. Payne tell you to talk to the group leaders?

4 A Yes, he did.

5 Q Did he tell you the subject to which you should talk
6 to them?

7 A Yes.

8 Q Where were you when you talked with Mr. Payne, if
9 you recall?

10 A At the desk.

11 Q At his desk?

12 A Yes.

13 Q What time of the day was this?

14 A Well, now with the group leaders or the maintenance?

15 Q With Bill Payne.

16 A It was around 4:30, somewhere, when he talked to the
17 maintenance and then it was a little after five when I went
18 down and talked with the group leaders.

19 Q When did Bill Payne talk to you about your talking
20 with the group leaders?

21 A Right after we got through with the maintenance men.

22 Q Now, do you recall specifically whether you were at
23 the color code table when you talked with Emily White?

24 A Well I can't say for sure.

25 Q Do you recall talking to her that evening?

1 A Yes, I do.

2 Q Was anybody else present at that time?

3 A Not that I know of.

4 Q Will you tell us please what you said to Emily White
5 and what she said to you, if anything?

6 A Well I was just told to tell the group leaders --

7 MR. MERCER: Objection.

8 BY MR. HILL:

9 Q What did you tell Mrs. White?

10 A Emily White, the group leader, that if the maintenance
11 wasn't busy in her set, the girls had been complaining about
12 not getting their machine fixed, and to make sure that they
13 did get on another machine if the maintenance was loafing
14 because Mr. Payne had talked to the maintenance about keeping
15 busy.

16 Q This is what you told Mrs. White?

17 A Yes.

18 Q Was anything else said do you recall? Did she say
19 anything?

20 A She said she would carry out the duties.

21 Q Did you talk with Sharon George that evening?

22 A Yes, I did.

23 Q Did you talk to her alone?

24 A Yes.

25 Q Will you tell us please what you said to Sharon George?

1 A Well, I told the group leaders the same thing as far
2 as I can --

3 Q You told Sharon the same thing you told Emily?

4 A Yes.

5 Q Did you talk with Margaret Brothers?

6 A Yes.

7 Q Was anyone else there when you talked with her?

8 A Not that I recall.

9 Q This was the same evening?

10 A Yes.

11 Q What did you tell Margaret Brothers?

12 A I told her the same things I told Emily and Sharon George.

13 Q Did you say you were present at the time that Bill

14 Payne talked with the maintenance men that evening?

15 A Yes, I was.

16 Q Did he talk with them in a group?

17 A Yes, he did.

18 Q Roughly how many maintenance men were present at that

19 time?

20 A Three maintenance and two cam and maintenance.

21 Q Is this a combination job cam and maintenance?

22 A Yes.

23 Q Do you remember the date of this?

24 A No, I don't.

25 Q Was it in April?

1 A I believe it was.

2 Q Do you recall what Bill Payne told the maintenance men
3 that evening?

4 A I recall that Bill talked to the maintenance and said
5 he had had complaints from the operators that they wasn't
6 getting the job done and he wanted them to make sure that they
7 stayed in their sets and that the machines were running and
8 if they wasn't to go to other sets and work on the machines
9 because when there is a breakdown we need the other machines
10 to run on.

11 Q Was anything else said or was this the general substance?

12 A That's just the general.

13 Q Did any of the maintenance men say anything that you
14 recall?

15 A No.

16 Q And it was following this then that you talked with
17 the group leaders?

18 A Yes.

19 Q Mrs. Porter, had you had an opportunity to observe the
20 maintenance men at their work around that time, around April
21 of 1966?

22 A What do you mean?

23 Q Did the maintenance men fall under your supervision
24 also as assistant foreman?

25 A Well, the only thing is if Mr. Payne told me to go to

1 maintenance and I carried out my duty as assistant foreman.

2 Q But you would carry orders from Bill Payne to the
3 maintenance men?

4 A (Nods head to signify affirmative)

5 Q Did you have any opportunity to see them doing their
6 job while you were there on the floor?

7 A Yes, I did.

8 Q Did you ever observe the maintenance men talking,
9 sitting around, in April, prior to that time, had you ever
10 seen maintenance men talking and sitting around not doing
11 anything?

12 A Yes. There were times that, you know, when they should
13 have been busy on another job and there was a little slackening
14 there they should have been working.

15 Q Mrs. Porter, there has been testimony in this proceeding
16 that you followed Reva Robertson and Anna Branam to the
17 rest room and remained in that rest room.

18 Have you ever followed Reva Robertson and Anna Branam
19 to the rest room?

20 A No, sir.

21 Q Have you ever followed anybody to the rest room?

22 A No, sir.

23 Q And remained there?

24 A No, sir.

25 Q There has also been testimony in this proceeding, Mrs.

1 Porter, that you followed Tom Beech around the plant, perhaps
2 hours at a time.

3 Did you ever follow Tom Beech around the plant?

4 A No, sir.

5 Q Did anyone ever tell you to?

6 A No, sir.

7 Q Did you ever watch Tom Beech for Union activities?

8 A No, sir.

9 Q Were you ever told to do that?

10 A No, sir.

11 Q Mrs. Porter, are you familiar with a practice among the
12 stick winders or coil winders on the night shift of their
13 being prohibited from going two at a time to the rest room,
14 that is, two persons from the same group going to the rest
15 room at the same time, are you familiar with that practice?

16 A Yes.

17 Q Do you recall when that practice with regard to the
18 stick winders or the coil winders was begun?

19 A That time began on the night shift when Bill Payne
20 came in as foreman.

21 Q When did Bill come in as foreman, do you recall, how
22 long has it been?

23 A It's been over two years.

24 Q Were you working nights when he came in?

25 A Yes, I was.

1 Q And has that been the practice with regard to coil
2 winders and stick winders?

3 A Yes.

4 Q Now calling your attention to April of this year, were
5 there any complaints received from coil winders about the
6 quality girls going to the rest room two at a time?

7 A There was complaints that went to the foreman and the
8 foreman came to me.

9 Q Did the complaints did not come to you?

10 A No. They came to Mr. Payne.

11 Q Did he tell you there had been complaints made?

12 A Yes, and asked me to go to the two quality audit girls
13 and ask them not to leave and go to the rest room together.

14 Q Did you do that?

15 A Yes, I did.

16 Q Mrs. Porter, you testified concerning one talk given
17 by Bill Payne to the maintenance men as a group in April.

18 Do you recall another time when Mr. Payne talked with
19 the maintenance men as a group?

20 A Yes.

21 Q Was that also in April?

22 A I believe it was.

23 Q Later on in April?

24 A Yes.

25 Q Were you present at that time?

1 A Yes, I was.

2 Q What time of the evening was this?

3 A It was not long after we started out on the night
4 shift at 4:00 o'clock.

5 Q Were there most or all the maintenance men?

6 A All of them.

7 Q Do you recall what was said at that time by Mr. Payne?

8 A Well it was just a routine of the same subject, for
9 them to make sure that their sets was in good condition at
10 all times and not to be sitting and loafing, if they had spare
11 time to get to the other sets and work.

12 Q By the way, was this a new practice to have the men
13 helping out in other sets?

14 A No, it's been done. It's been in stick winding ever
15 since I've been in stick winding.

16 Q How long have you been in stick winding?

17 A For approximately 7 or 8 years.

18 Q Did Mr. Payne say anything that evening about rotating
19 the maintenance men?

20 A Yes, but that has always been routine.

21 Q What did he say?

22 A He told them that they would be still rotating, they
23 most generally left at two weeks at a time and that they
24 would move into another set.

25 Q Now prior to this time, not prior to this talk but in

1 the past prior to that time had there been rotation of the
2 maintenance men?

3 A Yes.

4 Q Is this a new practice at all or had it been done before?

5 A No, it's always been before.

6 MR. MERCER: I object to that.

7 MR. HILL: You may cross-examine.

8 CROSS-EXAMINATION

9 BY MR. MERCER:

10 Q As a matter of fact, in regard to the last rotation
11 question they had not been rotating before that talk in
12 April, had they?

13 A Yes, we have.

14 Q Do you mean they had been rotating without any break
15 ever since you have been around there, those maintenance men
16 on the machines?

17 A Maintenance men just always rotated from one set to
18 another one since I have been in stick winding.

19 Q How long have you been on nights in stick winding?

20 A Three years since it started.

21 Q Did you ever see Tom Beech out there?

22 A Yes.

23 Q Did you ever see him stay on the same set of machines
24 longer than two weeks?

25 A I can't say exactly how long Tom Beech stayed on one

1 Q Had you ever told those two girls that before?

2 A Well, no I hadn't.

3 Q They had been going to the rest room together on and
4 off for a long time, hadn't they?

5 A Well one of them hadn't been with us too long.

6 Q Well, since they have both been together the last three
7 or four months they had been doing that, hadn't they?

8 A Yes.

9 Q Did you tell them both, were they together when you
10 told them?

11 A Yes.

12 Q Do you distinctly remember telling them both?

13 A Yes.

14 Q Do you distinctly remember talking to Anna Branam
15 about this?

16 A Yes.

17 Q Are you sure this did not come down the line and she
18 got the information that way?

19 A No, sir.

20 Q Would you tell us where you were when you talked to
21 Anna Branam?

22 A They were sitting at their inspection quality where they
23 sit with their papers and my foreman, William Payne, sent me
24 up there.

25 Q What time of the day?

1 A I couldn't tell you the exact --

2 Q (interrupting): What day of the month?

3 A I couldn't tell you what day of the month.

4 Q Was it early in the evening or later in the evening?

5 A I would say it was before lunch at 8:00 o'clock.

6 Q Do you remember what they were wearing that day?

7 A No, sir.

8 MR. HILL: What were you wearing that day, Mrs. Porter?

9 MR. MERCER: That was uncalled for.

10 MR. HILL: I withdraw. You are right. I am sorry.

11 I apologize.

12 BY MR. MERCER:

13 Q So when you testified that two people were not supposed
14 to go from the same group to the rest room you were talking
15 about production people, you are not talking about quality
16 people at all, are you?

17 A Yes, the night shift is under one group and you can't
18 let one group do things that you wouldn't let the other group
19 do.

20 Q Do you mean to tell me for the last two years you seen
21 to it that those quality girls did not go to the rest room
22 together?

23 A I just told them what my foreman told me to tell them.

24 Q As a matter of fact when you testified about for two
25 years you know there has been this rule you couldn't go to

1 the rest room together, you are talking about a rule of
2 production people that has been in effect for two years, aren't
3 you?

4 A Yes, sir.

5 Q You are not talking about a rule that had been applied
6 to quality people, are you?

7 A Well, I was assistant foreman so I don't know whether
8 quality was concerned in it or not but I suppose the foreman
9 had talked to them.

10 Q So you don't know what the rule was for the past two
11 years because you were not in the rule making position all
12 that time, were you?

13 A I was group leader before I was assistant foreman.

14 Q The group leader does not have any control over
15 quality people, do they?

16 A No, sir.

17 Q Do they?

18 A No, sir.

19 Q Are you aware of the fact, have you been advised that
20 Mrs. Branam testified you followed her to the rest room on
21 a number of occasions?

22 A I never followed nobody.

23 Q I asked you, you misunderstood my question, listen
24 to it carefully, have you been advised, have you been told
25 that Mrs. Branam has testified that you followed her to the

1 rest room on a number of occasions?

2 A No, sir.

3 Q You have not been told that?

4 A No, sir.

5 Q Have you been told by anyone that Reva Robertson has
6 testified here under oath you followed her on a number of
7 occasions?

8 A No, sir.

9 Q Have you been advised or told that Mr. Tom Beech
10 testified that you watched him and followed him?

11 A No, sir.

12 Q Did it come as a total surprise to you when Mr. Hill
13 asked you those questions?

14 A Yes it did.

15 Q You did not know before you sat down in that witness
16 chair he was going to ask you that?

17 A He just talked to me and told me there had been some
18 testified against me.

19 Q Did he tell you they testified about that against you?

20 A Yes, sir.

21 Q So a minute ago when you told me that you had not been
22 advised or told about this, that wasn't right, was it?

23 A Well I misunderstood your question.

24 Q Mrs. Porter, I do not understand exactly what you told
25 Emily White on that night in April in regard to the maintenance

1 men.

2 Now, will you tell me again what you told Emily White?

3 A I told her what the foreman, William Payne, instructed
4 me to tell the group people Emily White, that if the maintenance
5 wasn't busy if they were sitting around talking and the girls
6 needed help, to make sure that they were busy. If they
7 wasn't, to have them go to another set and work. We did
8 put the girls in if they broke down.

9 Q I don't understand this. What was Emily supposed to do?

10 A Emily is the group leader over that line which that
11 maintenance works in that set.

12 Q Did you tell her that she was to do something about
13 these maintenance men or not?

14 A No, I just told her to make sure that her machines,
15 they kept their machines up in their set whichever one was
16 her maintenance.

17 Q Did you tell her how she was to accomplish this?

18 A No.

19 Q Did you tell her who she was to report to about this
20 if they did not do it?

21 A No, because the group leaders know they are to report to
22 William Payne, the foreman, or me, assistant foreman.

23 Q So you just made the statement without telling what
24 action specifically they were to take?

25 A I just made the statement what he told me to tell them.

1 Q Do you remember if your foreman gave you any
2 instructions about what you were to do about this?

3 A No, sir.

4 Q Do you recall your foreman giving you instructions
5 about what the group leaders were to do about the maintenance
6 problem?

7 A The group leaders need to come to the foreman.

8 Q Or to you?

9 A Yes. If the maintenance didn't do what they asked
10 them to do.

11 Q Really you testified about what you told Mrs. White
12 and you said you told Sharon George the same thing. Then
13 you say that you told Margaret Brothers the same thing. Did
14 you have this written down or read it to them?

15 A No, sir.

16 Q Are you contending in your testimony that you gave
17 these people exactly the same instruction?

18 A Well, I might not have given them exactly word for
19 word but as close as I possibly could.

20 MR. MERCER: Nothing further.

21 MR. HILL: That is all. Thank you.

22 TRIAL EXAMINER: Just a moment. I have a question or
23 two.

24 Do you recall ever being in the rest room at the same
25 time that Reva Robertson and Mrs. Branam were there?

1 THE WITNESS: Yes. I have been in the rest room when
2 they have been in there but I didn't know they were in there.
3 I accidentally had to go to the rest room myself. I went to
4 the rest room.

5 TRIAL EXAMINER: Do you remember whether there were
6 ever any occasions, do you remember you were there first on
7 occasions or were they there first?

8 THE WITNESS: No, there's been times that I have been
9 in there and ready to come out when they would come in and
10 there's been times when I walked in and they've been in there.

11 TRIAL EXAMINER: Do you remember ever going into the
12 rest room immediately after they did?

13 THE WITNESS: No, sir.

14 TRIAL EXAMINER: Could it have happened?

15 THE WITNESS: It could have happened.

16 TRIAL EXAMINER: But you don't remember it?

17 THE WITNESS: If it did happen I didn't know they was
18 in there.

19 TRIAL EXAMINER: Do you have a desk or a post?

20 THE WITNESS: At that time when I was assistant foreman
21 I had a desk with my foreman.

22 TRIAL EXAMINER: How far away were you from the
23 operation of Mrs. Robertson at that time?

24 THE WITNESS: Well, quality audit work is all the way
25 up and down the line.

1 TRIAL EXAMINER: You may step down.

2 (Witness excused)

3 MR. HILL: Thank you, Miss Porter.

4 TRIAL EXAMINER: Off the record.

5 (Discussion off the record.)

6 TRIAL EXAMINER: On the record.

7 MR. HILL: Marvin Frye.

8 MARVIN L. FRYE

9 a witness called by and on behalf of the Respondent, being
10 first duly sworn, was examined and testified as follows:

11 TRIAL EXAMINER: Give us your full name and address
12 please.

13 THE WITNESS: Marvin L. Frye, Harrisburg, Indiana.

14 DIRECT EXAMINATION

15 BY MR. HILL:

16 Q Are you employed by Sarkes Tarzian?

17 A Yes, I am.

18 Q What is your job there?

19 A Maintenance and cam.

20 Q On day or night shift?

21 A Night shift.

22 Q How long have you been on maintenance work, Mr. Frye?

23 A Approximately three years.

24 Q Calling your attention to April of this year, who was
25 your foreman?

1 A William Payne.

2 Q Were you working at the company on the night shift in
3 April of this year?

4 A Yes, sir.

5 Q Do you recall the time in April of this year when Bill
6 Payne talked to the maintenance men as a group?

7 A Yes, sir, I do.

8 Q Were you in attendance?

9 A Yes, I was.

10 Q What time of the evening was that, do you know?

11 A It was something after 4:00 o'clock.

12 Q Where did this take place?

13 A Next to the coil winders.

14 Q Do you recall what Bill Payne said at that time?

15 A Not the exact words but something to the effect that
16 we should help each other on the machines which have more
17 trouble.

18 Q Was anything else said that you recall?

19 A To do the best we could.

20 Q How long did the talk last, roughly, Mr. Frye?

21 A I'd say approximately ten minutes.

22 Q This helping one another, did he say anything about
23 helping other sets, other groups?

24 A Yes, sir. If the other boys were having more trouble
25 and we guys not having any trouble we ought to go and help them

1 out.

2 Q Was this a new practice, Mr. Frye?

3 A No, sir.

4 Q This has been a practice prior to the time of this
5 talk?

6 A Since I've been on the night shift.

7 Q When did you come on the night shift?

8 A Three years. Approximately three years.

9 Q Are you a supervisory employee, Mr. Frye?

10 A No, sir.

11 Q Do you recall anything else said by Mr. Payne that
12 evening?

13 A No, sir, I don't.

14 MR. HILL: You may cross-examine.

15 CROSS-EXAMINATION

16 BY MR. MERCER:

17 Q Mr. Frye, if this is the same old practice would you
18 tell us why Mr. Payne told you he had this meeting?

19 A Well, to the best of my knowledge it was due to some
20 of the boys were having a lot more trouble than others and
21 he thought we ought to try and help them out a little more.

22 Q As a matter of fact hadn't everybody gotten pretty
23 lax over the last year or so?

24 A I don't think so.

25 Q How long had it been since he had told you about this

1 same old practice?

2 A Well, that was the first meeting we had for quite
3 some time.

4 Q What facts are you basing this statement that this is
5 the same old practice on?

6 A Just like I said, to help each other out if one has
7 more trouble the other boys go help him out.

8 Q When did Mr. Payne last told you that this was the
9 practice before this April meeting?

10 A I don't recall.

11 Q Do you recall him ever holding a meeting before and
12 saying this?

13 A Yes, he talked to us before.

14 Q But you don't remember how long it had been?

15 A No, sir.

16 Q You didn't wear a Union button, did you?

17 A No, sir, I did not.

18 MR. MERCER: I pass the witness.

19 MR. HILL: No questions.

20 TRIAL EXAMINER: That is all. You may step down.

21 (Witness excused)

22 TRIAL EXAMINER: We will take a recess until 9:00 o'clock
23 tomorrow morning.

24 (Whereupon, at 4:55 o'clock p.m., the hearing was
25 in recess until 9:00 o'clock a.m., tomorrow morning, September
28, 1966.)

✓ 1 CHARLES R. DONNENFELD, ESQ., Sherman & Dunn,
2 Attorneys-at-Law,
3 1200 Fifteenth Street, N.W.,
4 Washington, D. C.,
5 appearing for the Charging
6 Union.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 speak up loud please.

2 THE WITNESS: Willard H. Barlow, Route 1, Spender.

3 TRIAL EXAMINER: How do you spell Barlow?

4 THE WITNESS: B-a-r-l-o-w.

5 DIRECT EXAMINATION

6 BY MR. HILL:

7 Q Are you employed, sir?

8 A Yes, sir.

9 Q By whom?

10 A Sarkes Tarzian, tuner division.

11 Q When did you begin your employment with Sarkes Tarzian?

12 A In December of sixty five.

13 Q What job do you hold with that company?

14 A I work the cams on the stick winding machines.

15 Q Day shift or night shift?

16 A Night shift.

17 Q How long have you had that job?

18 A Since February sixty five. That's with the night shift.

19 Q Since February?

20 A (Nods head to signify affirmative)

21 Q Mr. Barlow, can you explain for us very briefly what
22 a cam man is or does?

23 A The cam man is charged with the service on the cam itself.

24 Q On what machine is a cam?

25 A It works on the stick winding machine. It drives the

1 wire guide that winds the sticks.

2 Q Do you do any maintenance as part of being a cam man?

3 A I help with the maintenance when needed.

4 Q Is that maintenance on the stick winding machines?

5 A Yes, sir.

6 Q Who is your foreman?

7 A Mr. Payne.

8 Q Mr. Barlow, are you familiar with a practice of the
9 company in your department on your shift of rotating maintenance
10 men in stick winding maintenance?

11 A Yes, sir.

12 Q How long has this been done?

13 A Ever since I've been there.

14 Q This was not a new practice beginning April of this year?

15 A No, sir.

16 Q Are you familiar with the practice in your department
17 on your shift of maintenance men helping other maintenance
18 men in another set?

19 A Yes, sir.

20 Q First of all, are you on a particular evening assigned
21 to a particular set or maintenance men assigned to a particular
22 set?

23 A The maintenance personnel often-times are placed on a
24 set but if trouble occurs you --

25 TRIAL EXAMINER: What do you do then did you say?

1 THE WITNESS: Your maintenance personnel, sir, if you
2 have a breakdown, these machines must run, we gang up on
3 them and get them going and I even help occasionally.

4 BY MR. HILL:

5 Q When was this practice begun?

6 A It's always been that way, to the best of my knowledge,
7 we've always done that. Even Mr. Payne will help us when we
8 get in a bind.

9 Q This was not a new practice in April 1966?

10 A No, sir.

11 Q Did this practice of rotating, does that apply to all
12 maintenance men?

13 A Yes, sir.

14 Q And has the practice of helping on other sets and
15 helping other persons out apply to all maintenance men?

16 A Yes, sir.

17 MR. HILL: Your witness.

18 CROSS-EXAMINATION

19 BY MR. MERCER:

20 Q Mr. Barlow, I take it from your testimony about cams
21 that you are basically a cam man and not a maintenance man?

22 A That's true.

23 Q I also understand from your testimony that the men are
24 assigned to a set, I am speaking of the maintenance man not
25 the cam man, that from your observation they are assigned to a

1 set of machines, is that right, sir?

2 A I didn't intend to leave that impression. They'll go
3 in and they'll be placed on a set.

4 Q That is what I mean, they are assigned to a set, a
5 certain set of machines?

6 A That evening.

7 Q Or for that week?

8 A Yes, perhaps.

9 Q Or for that two week period or whatever it is?

10 A All right.

11 Q Is that true, sir?

12 A Yes, sir.

13 Q And when you are talking about pitching in and helping
14 you are talking about when you have an unusual breakdown that
15 requires the service of more than one maintenance man, isn't
16 that right, sir?

17 A Yes, sir.

18 Q You are talking about when you have three or four
19 machines and one man can't fix them all?

20 A That's possible.

21 Q For example, you are a cam man. Normally you are not
22 out there helping the maintenance men?

23 A That's true.

24 Q And when you and Bill Payne would be helping the
25 maintenance men, wouldn't this be something pretty major that

1 has gone wrong?

2 A Yes, sir.

3 Q That would not be an every day occurrence?

4 A It doesn't occur every day.

5 Q How long has it been since something like that has
6 happened when you were over on that job?

7 A Here, let's see, here a couple of weeks ago, for
8 instance, myself and Mr. Frye, the cam man, he's also a
9 maintenance man, we had a *** cams that one of the maintenance
10 men helped us, he's pretty good on cams.

11 Q How long has it been since you went over and helped
12 the maintenance men on a machine?

13 A Well, I quite frequently help out in the --

14 Q (interrupting): My question is: How long?

15 A Last night.

16 Q What happened last night?

17 A We put solder on the machine and put wire on it and
18 sometimes your maintenance men are so busy he can't get to
19 all of them at once, so you go help.

20 Q Were you working by yourself on this machine?

21 A Yes, sir.

22 Q Who called you over to the machine?

23 A I don't recall because, as I say, they say, put a roll
24 of wire on a certain machine.

25 Q Who told you to put the roll of wire on the machine

1 last night?

2 A It would probably be Bert.

3 Q Who is Bert?

4 A That's Mr. -- I work with him, I think his name is
5 Thacket.

6 Q Would it be Hatchett?

7 A That's it.

8 Q He is in maintenance, he is not a supervisor?

9 A He's a maintenance man.

10 Q He is not the foreman?

11 A No, sir.

12 Q Tell us what did he ask you to do last night.

13 A It isn't that. It's kind of hard to explain these
14 things, see. A machine needs wire. It must have wire to
15 run and if I see a situation I just go do it. And one of them
16 will say, "Well, you do this." And you don't think anything
17 about it.

18 Q I am not questioning about whether he ordered you to.

19 A Oh, no, sir.

20 Q I am not asking you that.

21 All I am trying to find out is: How did you happen
22 to go over on this machine last night? Did you see it and
23 just go over and start working or did somebody tell you to
24 go work on it?

25 A They just ask you to help.

1 Q Who asked you to help last night?

2 A I think it was Bert.

3 There's a certain amount of confusion there, I mean,
4 sometimes it pops quick. That's why we pull together. It's
5 not like any ordinary job.

6 Q Mr. Barlow, what percentage of your time would you say
7 you spend working on cams and what percentage do you spend
8 working on machines?

9 A I don't know. I spend the bulk of my time on cams but
10 if there's a slight stoppage where I can help I do help.

11 I spend nearly all my time on cams. I'm primarily
12 a cam man.

13 Q Have you ever been just a maintenance man, just a
14 regular maintenance man as opposed to a cam man?

15 A No, sir.

16 Q Are you the only cam man on that shift?

17 A The other two men are cam maintenance. That's Mr.
18 Frye and Mr. Dowdy. But I'm the only cam man.

19 Q Have you been there longer than Mr. Frye?

20 A No, sir.

21 Q Have you been there longer than Mr. Dowdy?

22 A No, sir.

23 Q Then you are the youngest man among the cam men on
24 the night shift?

25 A Mr. Frye quit for a while. I guess in seniority I

1 would probably be senior to Mr. Frye.

2 Q That is what I meant.

3 A Yes, sir, but not with Dowdy.

4 Q But not to Dowdy.

5 Were you asked to transfer to the day shift this year?

6 A This year?

7 Q This year 1966.

8 A No.

9 MR. HILL: Objection. This is outside the scope of
10 direct examination.

11 TRIAL EXAMINER: He has answered the question. I
12 will let it stand.

13 MR. MERCER: No further questions.

14 MR. HILL: Nothing further.

15 TRIAL EXAMINER: Thank you.

16 (Witness excused)

17 MR. HILL: Margaret Sue Brothers.

18 MARGARET SUE BROTHERS

19 a witness called by and on behalf of the Respondent, being
20 first duly sworn, was examined and testified as follows:

21 TRIAL EXAMINER: Give your name and address please.

22 THE WITNESS: Margaret Sue Brothers, Route 7,
23 Bloomington.

24 DIRECT EXAMINATION

25 BY MR. HILL:

Q Mrs. Brothers, are you employed by Sarkes Tarzian?

1 A Yes, I am.

2 Q How long have you worked for that company?

3 A Since August of 55.

4 TRIAL EXAMINER: I didn't hear you.

5 THE WITNESS: August of 1955.

6 BY MR. HILL:

7 Q What is your current job?

8 A I'm a utility operator.

9 Q Is that on the day shift or night shift?

10 A Night shift.

11 Q How long have you been a utility operator?

12 A Since December 18 I believe of sixty six.

13 Q Sixty five? This is sixty six.

14 A Sixty five. Yes.

15 Q Have you also been a group leader?

16 A That's the same thing.

17 Q You are a group leader now?

18 A Yes.

19 Q What department do you work in?

20 A Coil winding.

21 MR. MERCER: I couldn't hear.

22 THE WITNESS: Coil winding.

23 BY MR. HILL:

24 Q As a group leader were you eligible to vote in the
25 past election?

1 A Yes I was.

2 Q Were other group leaders eligible to vote?

3 A Yes.

4 MR. MERCER: I will object to that, sir.

5 MR. HILL: Can we stipulate?

6 MR. MERCER: Yes. But she is not the one to -- I will
7 stipulate they were in the unit to vote in the election.

8 TRIAL EXAMINER: Okay.

9 BY MR. HILL:

10 Q Mrs. Brothers, calling your attention to April of 1966,
11 do you recall a conversation with Grace Porter concerning
12 the maintenance men?

13 A Yes, I do.

14 Q Do you recall approximately when in April that was?

15 A No, I don't.

16 Q You don't recall the date?

17 A No.

18 Q Was it in April to the best of your recollection?

19 A Yes, it was.

20 Q Do you know or do you recall where you were at the
21 time that Grace Porter talked with you?

22 A I believe it was on line 7. That's where I was
23 assigned to.

24 Q Do you recall what time of the day or night this was?

25 A Oh, it was something after 4:00 o'clock I'd say, about

1 maybe five.

2 Q What time does your shift start?

3 A Four.

4 Q Was anyone else present at that time?

5 A They could have been but I don't remember anyone.

6 Q Will you tell us please what Grace Porter said at that
7 time and what you said at that time?

8 A She said that I was to see that the maintenance men
9 was kept busy and that they wasn't to sit and if they wasn't
10 busy they were to work somewhere else.

11 Q Had you had an opportunity prior to that time to
12 observe the maintenance men?

13 A Yes.

14 Q And were there occasions when you observed the
15 maintenance men sitting around?

16 A Well at times, yes.

17 Q Were there occasions when they were sitting around
18 when there was work available for them?

19 MR. MERCER: I will object to that.

20 MR. HILL: I think she can answer that.

21 MR. MERCER: I think she can't, sir. She is not a
22 maintenance man.

23 I think it is a proper question of a maintenance man,
24 foreman or someone that is charged with their work.

25 BY MR. HILL:

Q Mrs. Brothers, do you have maintenance men working

1 in your group?

2 A Yes.

3 Q Have you had in the past?

4 A Yes.

5 Q Have you been able to observe the maintenance men in
6 your group in the past?

7 A Yes.

8 Q Have you ever observed the maintenance men sitting
9 around or loafing when there was work to be done?

10 MR. MERCER: I will object to that, sir. This calls
11 for a legal conclusion, if they were sitting around loafing
12 while there was work to be done.

13 MR. HILL: I don't believe --

14 MR. MERCER (interrupting): I think she can certainly
15 testify to her observation as an employee and I am not objecting
16 to that but he is asking, he is putting words in her mouth,
17 he is asking her to say, "Yes, I saw them," yes, to the
18 leading question, "They were sitting around loafing while work
19 was to be done."

20 TRIAL EXAMINER: The objection is sustained.

21 MR. HILL: Have you observed the maintenance men sitting
22 around loafing in the past prior to April --

23 MR. MERCER (interrupting): I object to the word
24 "loafing."

25 MR. HILL: Have you seen them sitting around doing

1 nothing, talking?

2 THE WITNESS: Yes, I have.

3 BY MR. HILL:

4 Q When have you observed this?

5 A Well, sometimes the machine will go down and maybe
6 they may not know it's down but it's my place to see that
7 they go and fix it, and I go to them and see that it gets
8 fixed.

9 Q Did this occurrence happen prior to April?

10 A Yes..

11 Q How long have you been in coil winding, Mrs. Brothers?

12 A About seven years.

13 Q Have you been familiar with the practice of rotating
14 the maintenance men?

15 A Yes, I am.

16 Q How long has that been a practice with the company,
17 if you know?

18 A Ever since I've been on coil winding.

19 Q It was not a new practice begun in April?

20 A No, it wasn't.

21 Q Mrs. Brothers, were you ever told by anyone to watch
22 any of the employees for Union activities?

23 A No, I wasn't.

24 Q Did you ever watch anybody for Union activities?

25 A No, sir.

1 MR..HILL: Your witness.

2 CROSS-EXAMINATION

3 BY MR. MERCER:

4 Q Miss or Mrs. Brothers, you said that it was your place
5 to see that the maintenance men would fix something if it
6 were broken?

7 A Yes.

8 Q What do you mean by this, it was your job to call this
9 to his attention if he didn't see it?

10 A If he didn't see it, right.

11 Q You had no power to discipline if he didn't obey your
12 orders, did you?

13 A No.

14 Q Now, you don't supervise these maintenance men, do you?

15 A No.

16 Q They have someone else that does that?

17 A Bill Payne.

18 Q Before April, the time that we are talking about now,
19 had Tom Beech ever worked on your machines?

20 A Occasionally.

21 Q Was he ever assigned to your machines?

22 A No, sir.

23 Q He never was before then?

24 A No, sir.

25 Q After this April date was he then assigned to your

1 machines?

2 A No, sir.

3 Q He never was assigned to the set of machines you have?

4 A He wasn't assigned. He worked when I had more than
5 one down, he did help.

6 Q He did help out?

7 A Yes.

8 Q Are you a group leader for one line or two?

9 A One.

10 Q So other than helping out on breaks he was not assigned
11 as regular on your line?

12 A No.

13 Q Do you remember approximately how many months Tom
14 Beech worked there?

15 A I'd say about five.

16 Q How often did they rotate these maintenance men?

17 A Well, I couldn't really say how often. I'd be hard
18 to say how often.

19 Q Do you really have knowledge about that or is that
20 something that Mr. Payne and the maintenance men know about?

21 A About rotating?

22 Q Yes.

23 A Yes I know they do.

24 Q Are you there when they give the orders to rotate?

25 A No, but I know when I get different maintenance is

1 when I know.

2 Q As a matter of fact, you never did have Tom Beech,
3 did you?

4 A No, sir.

5 Q If they rotate these men could you explain to us why
6 you never had Tom Beech?

7 MR. HILL: Objection.

8 TRIAL EXAMINER: Sustained

9 BY MR. MERCER:

10 Q In regard to the conversation you had with Grace Porter
11 sometime in April when you were on line 7, do you know what
12 I am referring to?

13 A Yes.

14 Q Did Grace Porter tell you what you were to do if the
15 maintenance men did sit down and start shooting the breeze
16 with the girls?

17 A Yes, she did.

18 Q What did she tell you you were to do?

19 A I was to report to her or Bill Payne. I know that,
20 that's just what she told me.

21 Q Did she tell you you were to go out and say something
22 to them directly?

23 A Do you mean myself?

24 Q Yes.

25 A No.

1 Q You know that was not your duty to do that?

2 A Yes.

3 Q But she did tell you if you observed them talking when
4 it looked like they should be working that you were to let
5 her know about it?

6 A Right.

7 Q Had she ever given you instructions like that in the
8 past, before this time?

9 A It had been a while but she had.

10 Q How long a while?

11 A I couldn't hardly say.

12 Q Are you talking about a year or two?

13 A No, it hadn't been that long. Maybe six months. Other
14 than this time it happened about six months ago.

15 Q Can you remember any other instructions like this that
16 she gave you?

17 A Well, mostly, see, Gracie she hadn't been an assistant
18 foreman too long, mostly my orders came from Bill Payne up
19 until March.

20 Q Did Bill Payne ever give you an order like this before?

21 A Yes, quite a few times.

22 Q How long ago was that before this April incident?

23 A It probably hadn't been but three months ago. It's
24 not too long in between time because that's routine orders.
25 They do that routine.

1 Q Miss Brothers, it just slipped my mind. How long
2 have you been in this group leader position?

3 A Since December of sixty five.

4 Q Well before this time in sixty five about nine months.
5 had you been given orders by anybody?

6 A No, sir.

7 Q What was your job prior to 'December 1965?

8 A I was a coil winder.

9 Q Did you have any duties at that time about reporting
10 anyone if they didn't do their work?

11 A No, sir.

12 Q Who held the position of assistant foreman when you
13 first became group leader?

14 A There weren't any.

15 Q Then at the time Grace Porter was appointed it was a
16 new position as far as you were concerned?

17 A Yes. That's why I say I took most of my orders from
18 Bill Payne up until March.

19 Q From December to March you went straight to Payne?

20 A (Nods head to signify affirmative)

21 Q After that Porter was between you and Payne?

22 A Right.

23 MR. MERCER: I have no further questions.

24 MR. HILL: No questions. Thank you, Miss Brothers.

25 (Witness excused)

1 MR. HILL: Sharon George.

2 SHARON N. GEORGE

3 a witness called by and on behalf of the Respondent, being
4 first duly sworn, was examined and testified as follows:

5 TRIAL EXAMINER: Give us your full name and address.

6 THE WITNESS: Sharon N. George, Route 2, Bedford.

7 MR. HILL: Speak right up, Mrs. George, so that the
8 reporter can take it down.

9 DIRECT EXAMINATION

10 BY MR. HILL:

11 Q Mrs. George, do you work for Sarkes Tarzian?

12 A Yes, I do.

13 Q When did you start working for the company?

14 A June of sixty three.

15 Q What is your current job there?

16 A Now?

17 Q Now.

18 A I'm a contact stick machine operator.

19 Q Day or night shift?

20 A Night shift.

21 Q When did you begin as a contact stick operator?

22 A The first part of May.

23 Q Did you work on the night shift prior to that time?

24 A Yes.

25 Q What was your job prior to this?

1 A I was a group leader.

2 Q When did you begin as a group leader?

3 A I believe it was in March.

4 Q What department were you a group leader in?

5 A Coil winding.

6 Q Who was your foreman in that department?

7 A Bill Payne.

8 Q Was he your foreman in April of this year?

9 A Yes.

10 Q Who was your assistant foreman during April of this
11 year?

12 A Grace Porter.

13 Q Mrs. George, do you recall an occasion in April of this
14 year when Grace Porter talked to you about maintenance men?

15 A Yes.

16 Q Do you recall what date it was in April?

17 A No, I don't.

18 Q Is it your best recollection that this did occur in
19 April?

20 A In April.

21 Q Do you recall where you were at the time Mrs. Porter
22 spoke with you?

23 A I was on my line, on line 5 filling out an absentee
24 record.

25 Q Do you know what time of the day or evening that was?

1 A It was around five.

2 Q Was anybody else present at that time?

3 A Not that I can recall.

4 Q Will you tell us please, Mrs. George, what Grace
5 Porter said to you at that time and what you said, if anything?

6 A She said to me that she wanted me to watch the
7 maintenance and make sure that they were working all the time,
8 there had been some loafing and idleness and said that the
9 girls were complaining because the machines weren't being
10 fixed and they were complaining the maintenance men were
11 spending too much time on certain girls machines.

12 Q Is this what Mrs. Porter told you at that time?

13 A Yes.

14 Q Had you observed maintenance men spending too much
15 time on certain machines?

16 A Yes.

17 Q Which maintenance men?

18 A Well, there was Tom Beech spent a lot of time at Judy
19 Yankers machine. Raymond McNally spent time at different
20 girls machines. And we've got one, I can't recall his name
21 right now, talked to the tester a lot.

22 Q Were they working at the time they were doing this
23 talking?

24 A No.

25 Q Was this in April or prior to April?

1 A Yes.

2 Q Did Grace Porter tell you at that time to keep your
3 eye on Tom Beech?

4 A No.

5 Q Did she mention any men by name?

6 A She didn't mention any names.

7 Q Were you told to watch for any Union activity at that
8 time?

9 A No.

10 Q Who was your maintenance man at that time, do you recall?

11 A In April?

12 Q At the time that this conversation took place, if
13 you recall?

14 A I believe it was Maxine Chamness.

15 Q Is she the maintenance woman?

16 A Yes.

17 Q Have you ever followed Tom Beech around the plant?

18 A No, I haven't.

19 Q You never did during the time you worked there?

20 A No.

21 Q Did you ever watch Tom Beech for any Union activities?

22 A No, I didn't.

23 Q Were you ever asked to?

24 A No.

25 MR. HILL: Your witness.

CROSS-EXAMINATION

1
2 BY MR. MERCER:

3 Q Sharon, you were a group leader on which line?

4 A Line 5.

5 Q And Sharon George was group leader on which line?

6 A That's me.

7 Q I mean the girl that was up here, Miss Brothers.

8 A Seven.

9 Q Who was the other group leader?

10 A There was Roberta Miller.

11 Q Were there just three lines operating?

12 A At the time yes.

13 Q At the time we are talking about?

14 A (Nods head to signify affirmative)

15 Q That is what I am talking about. If I switch the
16 time I will tell you.

17 Now in April again which maintenance man was assigned
18 to your line?

19 A I believe I had Maxine Chamness.

20 Q She's a lady?

21 A Yes.

22 Q But she does the same type of work that Mr. Beech does?

23 A Yes.

24 Q Now up to that time had Mr. Beech been assigned to
25 your line?

1 A I'm not real sure but I believe he was on my line
2 for a short while.

3 Q Was he there on assignment or just come over to help?

4 A Assignment I believe.

5 Q You believe. Do you remember how long he was there?

6 A No because they would take maintenance real soon after
7 I was a group leader.

8 Q That was not my question. I said do you recall how
9 long?

10 A No.

11 Q You say you believe. Are you certain about that?

12 A I'm not certain, no.

13 Q You have testified that you observed a man whose name
14 I had forgotten talking to several of the girls. Who was that?

15 A Raymond Dowdy.

16 Q How did you happen to observe this?

17 A At one time I was one of the girls on the machines and
18 he spent a lot of time at my machine.

19 Q You are talking about before you became --

20 A (interrupting): This has been going on all the time
21 up until they talked to them, it did go on.

22 Q Is it still going on?

23 A At times, yes.

24 Q Other than your observation of this gentleman when you
25 were working on the line, did you observe him doing this while

1 you were a group leader?

2 A Yes.

3 Q Was he working on your machines?

4 A No, he wasn't in my set.

5 Q Well, how did you happen to observe him?

6 A Well, I mean, I was just out there on the floor, you can
7 see these things just by looking.

8 Q Do you leave your line to go other places?

9 A Well, yes. I was a color code girl and I know it's
10 a big job and it's at the end of a shift I would spend the
11 last hour going up and down the floor helping the color code
12 girl finish up.

13 Q Are you talking about when you were a group leader?

14 A Yes.

15 Q Did you say you observed Tom Beech doing this?

16 A Yes.

17 Q What were you doing when you observed Tom Beech?

18 A The girl he would talk to a lot was in my set. She
19 was one of my winders.

20 Q Was he working in your set then?

21 A No.

22 Q Do you know what he was doing over there?

23 A He was talking to her.

24 Q Did you hear the conversation?

25 A No, I didn't.

1 Q Was he wearing a Union badge at the time?

2 A He wore one. She wore one too.

3 Q Now this first gentleman that you said you saw him
4 talking several times, did you ever report this to the
5 assistant foreman?

6 A At the time we weren't told to report it.

7 Q Did you ever report Tom Beech for talking to this girl
8 on your line?

9 A No, I didn't. That was before we were told to.

10 Q But Porter did tell you to report this when it happened?

11 A Yes.

12 Q Did you make such reports?

13 A No because they were on their toes after we were told
14 that.

15 Q But you have just testified a few minutes ago since
16 this all happened you have observed him talking to girls
17 again like he used to?

18 A Yes, I have.

19 MR. MERCER: No further questions.

20 MR. HILL: Nothing further.

21 Thank you, Miss George.

(Witness excused)

22 MR. HILL: Emily White.

23 EMILY F. WHITE

24 a witness called by and on behalf of the Respondent, being
25

1 first duly sworn, was examined and testified as follows:

2 TRIAL EXAMINER: Speak up loud please and give us
3 your full name and address.

4 THE WITNESS: Emily F. White, 621 West Seventh Street,
5 Bloomington.

6 DIRECT EXAMINATION

7 BY MR. HILL:

8 Q Mrs. White, are you employed by Sarkes Tarzian?

9 A Yes, sir.

10 Q When did you begin your employment with that company?

11 A December fifty two.

12 Q What is your present job?

13 A Utility operator.

14 Q Is that a group leader?

15 A Yes, sir.

16 Q What department?

17 A Coil winding.

18 Q Day or night shift?

19 A Night shift.

20 Q What was your job in April of 1966?

21 A I was a group leader.

22 Q Coil winding?

23 A Yes, sir.

24 Q Did you just hear the testimony of Sharon George?

25 A Yes, sir.

1 Q She mentioned the name of another group leader at that
2 time Roberta Miller, is that the name?

3 A Yes.

4 Q Was she also a group leader at that time, do you know?

5 A Yes, she was. She was a group leader when I went up.

6 Q But you were also a group leader at the same time?

7 A Yes.

8 Q Mrs. White, do you recall an occasion in April of this
9 year when Gracie Porter spoke to you about the maintenance
10 men?

11 A Yes, I do.

12 Q Do you recall the date of that?

13 A No, I don't.

14 Q Is it your best recollection it was in April?

15 A That's right.

16 Q Where were you when Mrs. Porter spoke with you?

17 A I was down on my line, the exact position I wouldn't
18 be able to tell you, I don't recall.

19 Q What line number was that?

20 A At that time it was on line 2.

21 I had been on other lines but at that time it was on
22 line 2.

23 Q Was anybody else present at that time?

24 A No.

25 Q Will you tell us, Mrs. White, what Mrs. Porter said

1 to you at that time and what you said at that time?

2 A Well she just told me that she wanted me to keep an
3 eye on the maintenance and keep the machines going and see
4 that the maintenance kept them going and that if the boys
5 weren't busy in my set, why, they should go some place else
6 and work.

7 Q Who was your maintenance man at that time?

8 A Tom Beech.

9 Q Did she mention Tom Beech by name?

10 A No.

11 Q Were you told to watch for any Union activities on
12 the part of maintenance men?

13 A No, sir.

14 Q Did you say anything to Mrs. Porter at the time?

15 A No.

16 Q Now Tom Beech was your maintenance man. Did you have
17 an occasion to observe him prior to April 1966 on his job?

18 A Well, yes. Now when I went up as group leader he was
19 my maintenance man and I was on line 7.

20 Q When did you go up as group leader?

21 A The first week of March sixty six.

22 Q Go ahead.

23 A And, therefore, while he was with me about all the time
24 in my set most of the time regardless of which set I was in,
25 why, he was in my set.

1 Q Did he occasionally work in other sets?

2 A Yes. He'd go occasionally and work and go to other
3 sets and talk to the girls. When I needed help I usually
4 found him some place else.

5 Q Did Tom Beech do a lot of talking with the girls?

6 A Yes, he did.

7 MR. MERCER: I will object to that. He's leading
8 her, a lot of talking, putting words in her mouth.

9 MR. HILL: I will withdraw it.

10 Did Tom Beech talk with the girls?

11 THE WITNESS: Yes, he did.

12 BY MR. HILL:

13 Q On more than one occasion?

14 A All the time practically.

15 Q Was this during working hours?

16 A Yes, it was.

17 Q Do you know of your own knowledge whether Tom Beech
18 ever talked with girls when there was work available for him
19 to be doing?

20 A Yes, he did.

21 Q Did you ever have any occasion to hear Tom Beech talk
22 to a girl about working on the machine or not working on the
23 machine?

24 A Well, I heard him, the most I ever heard him say was
25 that I could understand that he said was that when one of the

1 A No, I wasn't. I was a coil winder.

2 Q As a group leader when before this, if ever, were you
3 told that you were to keep an eye on these people and if they
4 didn't do something to report it?

5 A No.

6 Q It never happened before?

7 A I was not told that before when I was a coil winder.

8 Q My question is: Since you were a group leader when,
9 if ever, before this April incident, were you ever told to
10 keep an eye on these maintenance men and if they did not keep
11 busy to report it?

12 A I had only been up as a utility operator since the
13 first week of March or the seventh day of March, I went up
14 officially, so, therefore, I hadn't been up only a very short
15 time.

16 Q Your answer is then you had never been told this before
17 while you were a group leader?

18 A If I had I don't recall at that time.

19 MR. MERCER: No further questions.

20 REDIRECT EXAMINATION

21 BY MR. HILL:

22 Q Emily, do you recall talking to me generally about
23 this case?

24 A Yes.

25 MR. HILL: I think that is probably all.

1 TRIAL EXAMINER: That is all. You may step down.

2 (Witness excused)

3 MR. HILL: Thank you, Miss White.

4 Roberta Robinson.

5 ROBERTA ROBINSON

6 a witness called by and on behalf of the Respondent, being
7 first duly sworn, was examined and testified as follows:

8 TRIAL EXAMINER: Give us your name and address please.

9 THE WITNESS: Roberta Robinson, Route 2, Bloomington.

10 DIRECT EXAMINATION

11 BY MR. HILL:

12 Q Are you employed by Sarkes Tarzian?

13 A Yes, I am.

14 Q When did you begin your employment with that company?

15 A Well, I went in August 26 I believe in 1964 and I
16 stayed until April when I was ill and I quit and came back
17 in May twenty fourth and have been there since, April 24
18 and then I quit for two months and I came back in May, the
19 twenty fourth, 60 days later.

20 Q When?

21 A 1965.

22 Q May of 1965?

23 A (Nods head to signify affirmative.)

24 MR. MERCER: Sixty five?

25 MR. HILL: When she started her last employment,

1 May 1965.

2 BY MR. HILL:

3 Q What work did you do when you started again in May
4 1965?

5 A When I first came in I was a coil winder for two,
6 three nights and then I went in as color girl, color code.

7 Q Color code?

8 A Yes.

9 Q Is this on the night shift?

10 A Yes.

11 Q Is color code in the coil winding area?

12 A Yes.

13 Q Is it part of the coil winding department?

14 A Yes.

15 Q When you were in coil winding during 1965 were you
16 familiar with a practice which prohibited two girls from
17 going to the rest room at the same time?

18 MR. MERCER: I will object to the question.

19 TRIAL EXAMINER: Sustained.

20 BY MR. HILL:

21 Q Was there a practice or were you told of such practice?

22 A Yes.

23 Q When were you first told about it?

24 A Oh, probably in November or so like that. I came in
25 August. It was probably, oh, October or November.

1 Q Of what year?

2 A Of sixty four I believe.

3 Q Who told you that, if you recall?

4 A Bill Payne.

5 Q Did he tell you this was a rule at any time?

6 A Well, I don't know whether it's a definite company
7 rule but if you make a practice of it they stop it.

8 MR. MERCER: I will move to strike that and the question
9 was what she was told.

10 BY MR. HILL:

11 Q What did Bill Payne tell you at that time?

12 A At that time he told me that I was going with another
13 girl regularly and staying too long and he wanted it stopped.

14 Q Was this going to the rest room?

15 A Yes.

16 Q Did he have any occasion to tell you that any other
17 time?

18 A Yes, several times.

19 Q Did you know whether he ever had an occasion to tell
20 that to other girls at any time?

21 A Yes, he did.

22 Q Did this rule apply to all the girls?

23 A Yes.

24 Q Now, calling your attention to April of 1966, this year,
25 were you working in coil winding?

- 1 A Yes.
- 2 Q Did you wear a Union button on the job?
- 3 A Yes.
- 4 Q Were you a member of the organizing committee?
- 5 A Yes.
- 6 Q Now in April of 1966, did Bill Payne ever talk to you
- 7 about going to the rest room?
- 8 A Yes.
- 9 Q Do you recall where that was?
- 10 A It was fairly close to the rest room areas because I
- 11 was coming out of the rest room.
- 12 Q Was anybody with you at the time?
- 13 A Yes.
- 14 Q Who was that?
- 15 A Dollie Merida.
- 16 Q What did Mr. Payne say to you and what did you or
- 17 Dollie say to him?
- 18 A He warned me again that we were going too frequently
- 19 together and staying too long and that he wanted it stopped.
- 20 Q Did you or Dollie say anything to him?
- 21 A Yes. He told the color code and the testers and some
- 22 of the other girls because we were griping about it and I
- 23 asked him if we couldn't go and the testers couldn't go why
- 24 quality could.
- 25 Q Did you mention any names in particular?

1 A Yes..

2 Q What were the names?

3 A They were Ann Branam and Reva Robertson.

4 Q Did he say anything to you?

5 A He didn't say anything to me.

6 Q Was that the end of the conversation then?

7 A Yes.

8 Q Had you prior to that time observed Ann Branam and
9 Reva Robertson going to the rest room together?

10 A Yes.

11 Q Had you ever been called out of the rest room because
12 you were in there too long?

13 A Yes.

14 Q When was that?

15 A Oh, a number of times. I don't know the exact date but
16 I had been called out.

17 Q Do you know whether any others have ever been called out
18 for being in there too long?

19 A Yes. Dollie Merida, Gracie Porter, I think Mary Porter.
20 They sent group leaders in one night when all of us were in
21 there.

22 Q Now after you wore your Union button to the plant, did
23 anybody ever follow you around the plant?

24 A Not to my knowledge, no.

25 Q Did anything unusual ever happen to you after you wore

1 A Do you mean did I personally hear that, hear him
2 telling every girl?

3 Q That's exactly --

4 A No, I did not.

5 Q And you were well aware, were you not, that the quality
6 girls did this all the time and there was never any stink
7 about it?

8 A To my knowledge there wasn't anything said about it.

9 Q That is why you griped to Payne because you knew they
10 were allowed to do it and you were not, right?

11 A That's right.

12 MR. MERCER: No further questions.

13 REDIRECT EXAMINATION

14 BY MR. HILL:

15 Q Mrs. Robinson, did Dollie Merida wear a Union button?

16 A Yes, she did. We were the first two on the night
17 shift to put them on and Tom Beech.

18 Q Was Dollie a member of the organizing committee?

19 A Yes, she was.

20 MR. HILL: No further questions. Thank you.

21 (Witness excused)

22 MR. DUCK: May we take a short break?

23 TRIAL EXAMINER: Yes.

24 (A short recess was taken.)

25 TRIAL EXAMINER: The proceeding will be in order.

1 MR. DUCK: Respondent calls as his next witness Miss
2 Ruth McCoy.

3 RUTH E. McCOY

4 a witness called by and on behalf of the Respondent, being
5 first duly sworn, was examined and testified as follows:

6 TRIAL EXAMINER: Give us your full name and address and
7 speak up loud.

8 THE WITNESS: Ruth E. McCoy, Unionville, Indiana.

9 DIRECT EXAMINATION

10 BY MR. DUCK:

11 Q Where are you employed, Miss McCoy?

12 A At Sarkes Tarzian.

13 Q How long have you been in their employ?

14 A Approximately 17 years.

15 Q What is your position at this time?

16 A At this time I interview and talk to the people that we
17 are hiring in for the factory. Interviewer.

18 Q To all people or just certain classifications?

19 A Certain classifications.

20 Q What are they?

21 A Factory.

22 Q Are they mail and female both?

23 A Female only.

24 Q How long have you been employed in this position by
25 the company?

1 A In this position since about June 13 I believe, sir.

2 Q Of what year?

3 A This year, sixty six.

4 Q Are you acquainted with an employee in the company named
5 Sandra Laven?

6 A Yes, sir.

7 Q What was your first personal contact with Sandra Laven?

8 A The first time I remember seeing or knowing of Sandra
9 Laven was when she came into the office to be terminated.

10 Q Were you employed in your present position at that time?

11 A At that time yes.

12 Q Did you have any conversation with her at that time?

13 A No, I did not.

14 Q What was your next contact with Sandra Laven, if any?

15 A By a telephone call.

16 Q Who originated the call?

17 A Sandra Laven.

18 Q Was it to you?

19 A It was to me personally in my office.

20 Q When, if you remember, did this call take place?

21 A I don't know the exact date, sir, but it was sometime,
22 of course, after she was terminated, I would say the following
23 week but I can't say definitely.

24 Q Can you recall what month it was?

25 A It was the month of June. That was my second call.

1 MR. DUCK: I would like to have this marked as an
2 exhibit.

3 (The document was marked
4 Respondent's Exhibit No. 10
for identification.)

5 BY MR. DUCK:

6 Q I would like to hand you a document which has been
7 identified as Respondent's 10 and ask you if you can tell
8 us what that is please?

9 A This is an inter-office paper that if I happen not to
10 be in the office when I receive a call they give me the
11 person's name who called, the person's telephone number and
12 if I am to re-call this person. And that's what this is.

13 Q Is it office practice that these little telephone slips
14 bear the time the call come in?

15 A It has the time. It definitely has the time.

16 MR. DUCK: Counsel, can we stipulate the witness
17 received a telephone call from Sandra Laven at her place of
18 business on June 30 at approximately 11:15?

19 MR. MERCER: No.

20 BY MR. DUCK:

21 Q Is this document which has been identified as Respondent's
22 Exhibit 10 such a slip that was prepared in the ordinary
23 course of your office procedure?

24 A Right.

25 Q In whose possession has it been since it was prepared?

1 A This has been in mine. When we receive papers like
2 these we put it in a folder we keep.

3 MR. DUCK: Respondent offers in evidence Exhibit 10
4 and asks permission to substitute photostatic copies.

5 THE WITNESS: That also has the secretary's initials
6 where she initialed it.

7 MR. MERCER: May I see it?

8 May I ask a question, sir?

9 TRIAL EXAMINER: Go ahead.

10 EXAMINATION ON VOIR DIRE

11 BY MR. MERCER:

12 Q Did you say you keep these on all calls?

13 A On most calls, sir.

14 Q Most. Do you keep them all or just some?

15 A All.

16 Q How long do you keep such slips of paper like this?

17 A I think we can date that back quite a distance of
18 time since I've been there. I just put them in a manila folder
19 that we use for notes and when we receive something like this
20 after we have done it we have made the call, returned the call,
21 we slip it into that.

22 Q Do you file these by the name of the person calling?

23 A No, we do not.

24 Q In other words, you have a stack of these?

25 A Right. We just have them.

1 Q And after so much time has passed do you put them in a
2 folder or something and file them?

3 A We usually put them in a large folder and file them in
4 the back of the desk.

5 Q Do you have a large group of these for June and July?

6 A Not a large group, no, because I'm usually in my office

7 Q Do you have any others for the month of June and July?

8 A Yes, sir, I'm sure I do.

9 Q Will you tell us why you save these?

10 A I wouldn't really know. Let's put it like this. When
11 I went in there the lady who was in there was saving them, so
12 I automatically just started slipping them into the same place
13 she was.

14 MR. MERCER: I have no objection.

15 TRIAL EXAMINER: The exhibit may be received.

16 (The document heretofore marked
17 Respondent's Exhibit No.10 for
identification was received.)

18 BY MR. DUCK:

19 Q Now Respondent's Exhibit 10 on the date line bears the
20 date of 6-30. Can you tell us in what year that was made?

21 A 1966.

22 Q Thank you. Have you received any other telephone calls
23 from Sandra Laven in addition to that that was evidenced by
24 Respondent's Exhibit 10?

25 A One before that, sir.

1 Q Approximately how long before?

2 A I would say the week before.

3 Q Were you in your office when the call came in?

4 A I was in the office.

5 Q Did you talk with her on the telephone at that time?

6 A Yes, I did.

7 Q Please state what you said to her and what she said to
8 you.

9 A She was wanting reemployment and we told her we would
10 pull her folder, we would check it. That is the way we do all
11 of them, all the calls.

12 Q Now, did this telephone call to which you last speak
13 originate with Sandra Laven or with you?

14 A This last call?

15 Q Yes.

16 TRIAL EXAMINER: The one you are talking about now,
17 did it originate with Sandra Laven or with you?

18 THE WITNESS: She called.

19 BY MR. DUCK:

20 Q Was this call in point of time following the termination
21 of her employment?

22 A Following the termination, yes, sir.

23 Q And prior to June 30?

24 A Prior to June 30.

25 Q Was any additional part of the conversation on this last

1 occasion that you have described that you remember?

2 A Nothing definite only that I would pull her folder and
3 check it.

4 Q Now, have you had any other telephone conversation with
5 Sandra Laven other than the one you just described and the one
6 on June 30?

7 A Yes, sir.

8 Q What other ones have you had?

9 A That was on June the nineteenth, on the afternoon of
10 June nineteenth.

11 Q Do you mean the third one was on June 19?

12 A Right, sir.

13 Q June 19?

14 A I'm sorry. July 19.

15 Q July 19?

16 A July 19.

17 Q Of what year?

18 A 1966.

19 Q Now, who originated this telephone conversation?

20 A I called her.

21 Q Now, what was the reason for your calling her?

22 A She had been --

23 MR. MERCER (interrupting): I object to that. Let us
24 have what she said. Do we have to go into the background or
25 reasons for it?

1 MR. DUCK: May I withdraw the question and propose a
2 stipulation of the parties that the personnel department of
3 Sarkes Tarzian Inc. maintains a record of all personal calls.
4 By that I mean telephone calls by individuals coming into the
5 personnel office of the company reflecting the date and the
6 hour and that such record discloses that on July 19 Sandra
7 Laven personally came to the personnel office of the company
8 at 7:29 a.m. and, further, that Sandra Laven again personally
9 came to the personnel office of the company on July 20 at
10 7:09 a.m.

11 MR. MERCER: I will so stipulate.

12 BY MR. DUCK:

13 Q Now, did the telephone call of July 19 precede or follow
14 the personal call at the personnel office of the company of
15 Sandra Laven?

16 A It followed the personal call.

17 Q I want to direct your attention then to the morning of
18 July 19 and ask you if you had any personal conversation with
19 Sandra Laven in your office?

20 A Yes, sir.

21 Q Did you ask Sandra Laven to come in or did she come in
22 of her own free will?

23 A She come in on her own free will.

24 Q And not on your invitation?

25 A Not on my invitation, no, sir.

1 Q Please state what you said to her and what she said to
2 you.

3 A To the best of my knowledge I told her at the time I
4 still had nothing available at the time but there was something
5 I was checking on and if it did develop I would let her know.

6 Q Did Sandra Laven state to you what the reason for her
7 personal visit was?

8 A Employment. She said she needed work very bad.

9 Q Was there any additional conversation between you and
10 Sandra Laven at that time?

11 A At that time, no.

12 Q Thereafter you said you had a telephone conversation
13 with Sandra Laven?

14 A That's right.

15 Q Did you originate the conversation or did Miss Laven?

16 A I originated that one.

17 Q On what date was it?

18 A It was on seven nineteen.

19 Q July 19 of this year?

20 A The afternoon.

21 Q Approximately what time of the day?

22 A It was in the afternoon. I don't know exactly the time,
23 sir, but it was in the afternoon.

24 Q Please state what you said to Miss Laven and what she
25 said to you?

1 A I asked her to come in the next morning, that I felt we
2 could put her to work in this one position that I had told
3 her about that morning that I was working on.

4 Q What was that position?

5 A That was with Mr. Bridwell in air trimmer division.

6 Q Is this a division of Sarkes Tarzian Incorporated?

7 A Yes, it is a division.

8 Q Is it located apart from the tuner division?

9 A Right, sir.

10 Q Where is it located?

11 A It's located directly over the service building.

12 Q What did Sandra Laven say to you?

13 A That afternoon?

14 Q Yes. In that telephone conversation.

15 A She said she'd be very pleased to come in.

16 Q When did you ask her to come in?

17 A The next morning, the twentieth.

18 Q Was there any additional conversation over the telephone
19 on the afternoon of July 19 between you and Sandra Laven?

20 A No, sir.

21 Q When did you next have any contact in person or by
22 telephone with Sandra Laven?

23 A On the twentieth.

24 Q Of July?

25 A July 20.

1 Q 1966?

2 A Right.

3 Q Please describe what happened then.

4 A We hired her in. We processed her.

5 Q Did she come into your office?

6 A Right, sir.

7 Q The personnel office?

8 A She came in the personnel office.

9 Q Did you have a conversation with her?

10 A Right.

11 Q What did you say and what did she say?

12 A We told her we would offer her this job at the air
13 trimmer division and she was very pleased of the job offer.

14 Q Did you offer her the job?

15 A Yes, sir.

16 Q Did she accept it?

17 A She accepted the job.

18 Q Did she begin work on the job?

19 A She began working that day.

20 Q Is she working now on that job?

21 A As far as I know, sir, she is.

22 Q Did this period of employment originate by the request
23 of Sarkes Tarzian, Inc. or someone in the personnel office or
24 at the request of Sandra Laven?

25 MR. MERCER: I will object. That calls for a legal

1 conclusion. She has given us the facts.

2 TRIAL EXAMINER: Yes. Haven't you got the basic
3 circumstances?

4 MR. DUCK: Yes, I think so.

5 BY MR. DUCK:

6 Q Are you acquainted with an employee or a former
7 employee of Sarkes Tarzian, Inc., named Bobby Bennett?

8 A I'm not acquainted with the person. I was in my office
9 the day she was brought in for termination.

10 Q So you do remember the occasion?

11 A I remember the occasion, yes, sir.

12 Q Since that time has Bobby Bennett ever applied for
13 reemployment by Sarkes Tarzian Incorporated?

14 A No, sir.

15 Q Would you know if she had applied for reemployment?

16 A Yes, sir. If she had come in it would be on the record.

17 If she had phoned I would have known that or I would
18 have had a message similar to the one you just --

19 Q (interrupting): Have you examined the record of
20 employees who came in since Bobby Bennett's termination to
21 determine whether or not she came in?

22 A No, sir, I have not examined--which record do you
23 mean, sir? This one?

24 Q Yes.

25 A Yes, sir, I have.

1 TRIAL EXAMINER: No. I say the time for filing briefs
2 will be fixed as October 31, 1966.

3 MR. HILL: Respondent rests.

4 TRIAL EXAMINER: Any rebuttal?

5 MR. MERCER: Just a moment, sir.

6 Yes. Anna Branam, will you come up here please.

7 ANNA BRANAM

8 was called by and on behalf of the General Counsel in rebuttal
9 having previously been duly sworn, was further examined and
10 testified as follows:

11 TRIAL EXAMINER: You may sit down.

12 You are still under the same oath that you took before.

13 DIRECT EXAMINATION

14 BY MR. MERCER:

15 Q Mrs. Branam, did you ever serve as a group leader?

16 A Yes.

17 Q When were you last a group leader?

18 A In the latter part of March or early April.

19 Q What year?

20 A This year, sixty six.

21 Q Were you a group leader on days or nights?

22 A Nights.

23 Q What department?

24 A Quality in stick winding.

25 Q How long were you a group leader on this occasion?

1 A About four weeks.

2 Q Who appointed you to a group leader's position?

3 A Willard Parish.

4 Q During your time as a group leader were you ever
5 instructed by any superior of yours to watch and observe and
6 report on the maintenance men in your area?

7 A No.

8 Q Mrs. Branam, do you know a lady who testified this
9 morning by the name of Roberta Robinson?

10 A Yes.

11 Q Did she work in the general area where you did?

12 A Yes.

13 Q Did she work in that area before the 1966 election?

14 A Yes.

15 Q Now up to the time of the election on May 12, was she
16 wearing a Union button?

17 A Yes.

18 Q Did she wear it all the way up to the election?

19 A No.

20 Q Would you tell us how long before the election she took
21 that off?

22 A I'm not for sure just how long but I would say a
23 couple of weeks.

24 MR. MERCER: I have no further questions of this
25 witness.

CROSS-EXAMINATION

BY MR. HILL:

Q Mrs. Branam, were you a group leader on April 14, 1966?

A No.

MR. HILL: Nothing else.

TRIAL EXAMINER: That is all. You may step down.

(Witness excused)

MR. MERCER: Mr. Lucas, will you resume the stand please?

MICHAEL D. LUCAS

was called by and on behalf of the General Counsel in rebuttal having previously been duly sworn, was further examined and testified as follows:

TRIAL EXAMINER: You also are under the same oath you took before.

DIRECT EXAMINATION

BY MR. MERCER:

Q Mr. Lucas, did you hold any Union meetings prior to the election in 1966?

A Yes, I did.

Q Do you know the lady who testified by the name of Roberta Robinson?

A Yes, I do.

Q Did she attend those meetings?

A Before the election?

Q Yes, sir.

1 1966 and you asked her what was the day that --

2 MR. MERCER (interrupting): The last day that she
3 worked.

4 MR. HILL: You asked if she had a conversation in May
5 of 1966.

6 TRIAL EXAMINER: In any event the objection is overruled.
7 Go ahead.

8 BY MR. HILL:

9 Q Do you recall that conversation in the office?

10 A As I said, if that's all they had either the solder
11 pot or the machine or quality in the back I would have to quit.

12 Q You didn't say that again the next day?

13 A No, I did not.

14 Q What did you say the next day?

15 A He asked me if that meant I was terminating from the
16 plant and I said, "I cannot take those solder fumes or the
17 dust." He said, "Thank you," and then hung up.

18 MR. HILL: No further questions.

19 TRIAL EXAMINER: That is all.

20 (Witness excused)

21 MR. MERCER: I rest subject to our previous agreement.

22 TRIAL EXAMINER: Yes.

23 MR. HILL: May we have just a moment, sir?

24 TRIAL EXAMINER: Off the record.

25 (Discussion off the record.)

GENERAL COUNSEL'S EXHIBITS

SCA3

KERMIT Q. HIBNER, M. D.

117 NORTH GRANT STREET

REGISTRY NO. 4603

BLOOMINGTON, INDIANA

PHONE 336-5043—DOCTORS EXCHANGE 336-4864

OFFICE HOURS BY APPOINTMENT ONLY

FOR

ADDRESS

DATE

By

The above named pt. is
under my care for respiratory
allergy. She is definitely sensi-
tive to soldering fumes &
should not work in this
type of atmosphere

HAAG DRUG NO. 56

THIRD AND COLLEGE

PHONE 336-1647 BLOOMINGTON, IND.

REFILL : N.R. 1-2-3-P.R.N.

M. D.

8C#4

CERTIFICATE
FOR RETURN TO SCHOOL OR WORK

Date 12-11-65

Agnes Felty has been under
my care from 11-23-65 to 12-11-65

and is able to return to school
work on 12-13-65

Remarks:

K. Hibner

Oct
Del

KERMIT Q. HIBNER, M. D.

117 North Grant Street
BLOOMINGTON, INDIANA

Telephone 336-5045

9.C#5

KERMIT Q. HIBNER, M. D.

REGISTRY NO. 4803

117 NORTH GRANT STREET

BLOOMINGTON, INDIANA

PHONE 336-3045—DOCTORS EXCHANGE 336-4864

OFFICE HOURS BY APPOINTMENT ONLY

FOR

Cyrus Felty

ADDRESS

DATE

11/29/65

Re The above named pt. is

*under my care for an
upper respiratory allergy.*

*She should have approx
30 days leave of absence in order
to recover completely.*

HAAG DRUG No. 56

THIRD AND COLLEGE

PHONE 336-7047 BLOOMINGTON, IND.

K. Hibner

M. D.

REFILL N.R. 1-2-3-P.R.N.

GC #6

KERMIT C. HIBNER, M.D.

117 North Grant Street

Phone ED 6-5043

BLOOMINGTON, INDIANA

U.S. Registry No.

4605

Dist. of Indiana

For Agri. City Date 11/23/65
Street No. _____ City _____ State _____

R. The above named pt. is
under my care for nasal &
upper respiratory inflammation.
This is most likely due to
or aggravated by polluting fumes.
She should therefore be transferred
away from such fumes.
K. Hibner M.D.

Kirkwood Pharmacy

316 East Kirkwood Dial ED 2-3323

REFILL 0-1-3-3-PEN

8C#7

KERMIT Q. HIBNER, M. D.
REGISTRY NO. 4605
117 NORTH GRANT STREET BLOOMINGTON, INDIANA
PHONE 65043

FOR Agnes Felty DATE 4/23/66
ADDRESS _____

R. The above named pt. is under
my care for a respiratory
condition which is aggravated
by colder weather. Therefore
the patient must not come in
contact with such
ill people.

REFILL 1-2-3-P.R.N.
DEPENDABLE
PRESCRIPTION SERVICE
EASTLAND
PHONE 21419

K. Hibner
M. D.

85 CA 2490
85 CA 2534
Docket No. 25 RC 2308 OFFICIAL EXHIBIT NO. YC7

Disposition { Identified ✓
Received ✓
Rejected _____

In the matter of Sarkis Targian, Inc.
Date 9-26-66 Witness Sears Reporter af
No. Pages 1

S.C.#8

May 26, 1966

Mrs. Agnes Felty
2515 South Rogers Street
Bloomington, Indiana

Dear Mrs. Felty:

As you were advised on the telephone yesterday by Mr. Polley and Mrs. Haynes you were to report back to work on May 23, 1966 as stated on your leave papers or notify our Personnel Department that you needed an extension.

We are treating your call as a request for an extension and we are, therefore, extending your leave until June 20, 1966 at which time (or any prior time) you should report back for employment with an appropriate doctor's statement.

If we do not hear from you by Monday, June 20, 1966 you will be considered as voluntarily leaving the company's employ, unless, there is a justifiable reason for your failure to report. Please refer to the applicable policies stated on your leave papers.

Sincerely yours,

SARKIS TARZIAN, INC.

E. M. Sears
Personnel Manager

EHS/ces

25CA 2490
25CA 2534
25RC 2308
Docket No. OFFICIAL EXHIBIT NO. YC8.

Disposition { Identified ☒
Received ☒
Rejected ☐

In the matter of *Sarkis Tarzian, Inc.*
Date *9-26-66* *Sears* *af*
No. Pages *1*

SARKES TARZIAN, INC.

JUN 9 1966

PERSONNEL DEPT.

2515 South Rogers Street
Bloomington, Indiana
June 8, 1966

Mr. E. M. Sears
Personnel Manager
Sarkes Tarzian, Inc.
East Hillside Drive
Bloomington, Indiana

Dear Sir:

I am in receipt of your letter dated May 26, 1966 wherein you state that I was to return to work on May 23, 1966 as stated on my leave papers or notify the personnel department that I needed an extension. At the time I was placed on lay-off or leave, as you choose to call it, I was specifically instructed by Mr. Polley that he would call me back to work as soon as he had a job available for me.

You further stated in your letter that you are treating my telephone call as a request for an extension of leave and that I should report to work on or before June 20, 1966 with an appropriate doctor's statement. I did not request an extension of any leave when I talked to Mr. Polley and Mrs. Haynes by telephone on May 25, 1966 nor do I wish to do so. At this time I would like to inquire as to what you mean by "an appropriate doctor's statement"? I am not under the care of a doctor nor was I under a doctor's care when I was placed on lay-off by Mr. Polley. I have not filed for insurance benefits but am drawing unemployment compensation as you are aware. Let me refer you to my letter of April 29, 1966 addressed to you at the Sarkes Tarzian, Inc. Hillside plant.

In the last paragraph of your letter you state that if you do not hear from me by June 20, 1966, I will be considered as voluntarily leaving the company's employ. You are hearing from me now and I am telling you that I am ready to return to work as I have been since the date of my lay-off. Please notify me as to what kind of doctor's statement I am supposed to supply.

Sincerely yours,

Agnes O. Felty
Agnes O. Felty

REGISTERED MAIL

cc: NLRB, 25th Region
CASE NO. 25-CA-2490

Docket No. 25-CA-2490
25-CA-2534
25-CA-2308

OFFICIAL EXHIBIT NO. 25-CA-2490

Disposition { Identified ☒
Received ☒
Rejected ☐

In the matter of

Date

No. Pages

Sarkes Tarzian, Inc.
9-26-66
Sears Reporter *af*
1

2515 South Rogers Street
Bloomington, Indiana
June 21, 1966

Mr. Donald C. Duck, Atty.-at-Law
Cadick, Burns, Duck & Neighbours
800 Union Federal Building
45 North Pennsylvania Street
Indianapolis, Indiana, 46204

Dear Mr. Duck:

I am in receipt of your letter of June 15, 1966 wherein you state that Sarkes Tarzian, Inc. has referred my correspondence of June 8, 1966 to your office. In your letter you also state that I will not be allowed to return to work until I can furnish to the Company a written statement from my doctor to evidence that, in his opinion, I am sufficiently recovered so that exposure to solder fumes will no longer be injurious to my health.

From your letter, I can tell that you are not fully aware of the exact circumstances of my case. I am taking this opportunity to briefly inform you as to the exact situation.

On November 23, 1965, I took a thirty day "medical leave of absence" from the Sarkes Tarzian Company because of a condition brought on by direct exposure to solder smoke. I returned to work on December 13, 1965 and, at that time, furnished to the Company a statement from my doctor to the effect that, I was not to be placed on a job where I would be exposed to solder smoke. The Company accepted me under these conditions with no reservations.

On April 19, 1966, my line was broken up and I was moved to a job where I was again directly exposed to solder smoke. Other girls from my line, who have been with the Company for only a short period of time, were transferred to jobs not exposed to solder smoke. I have had experience on some of these jobs and was perfectly capable of doing any one of them.

On April 20, 1966, I became so badly choked that I had to leave work. On April 25, 1966, I reported back to work. At this time I furnished a statement from my doctor to the effect that, I was able to work, but should not be placed in direct exposure to solder smoke. I was escorted out of the plant by Mr. Jennings Polley, Production Manager.

My condition is not likely to go away, as it is brought on by direct exposure to solder smoke. I am not under the care of a doctor and have not been since April 23, 1966, - and am ready to return to work at any time. I cannot furnish the type statement you outline in your letter. Does this mean that the Company does not have any intention of allowing me to return to work?

I stated previously, I am ready to return to work at any time, on a job that will not directly expose me to solder fumes. and it is the Company's responsibility to call me when such a job is available, and therefore I am awaiting such call.

Case # 25-CA-2490
cc: National Labor Relations Board
E. M. Sears - Personnel Mgr.
Sarkes Tarzian, Inc.

Respectfully yours,

Agnes O. Felty
Agnes O. Felty

GC 10

June 15, 1966

Mrs. Agnes O. Felty
251 South Rogers Street
Bloomington, Indiana

Dear Mrs. Felty:

Sarkes Tarzian, Inc. has referred to this office your letter of June 8, 1966, in which you inquire as to the kind of doctor's statement you should supply in order to reestablish your physical qualification for available work at the Company.

Please be advised that the Company personnel office has on file the written statement which you supplied from your Dr. Hibner that you are not physically able to fill any jobs in which you come in contact with solder fumes. Therefore, in order to be employed in a job at the Company for which you are qualified whenever such is available, you will please furnish the written statement or certificate from your doctor to evidence that in his opinion you are now sufficiently recovered, that contact with solder fumes will no longer be injurious to your health, and that you may therefore be assigned to a job where you may be in contact with such fumes.

Thank you for your prompt attention to this matter.

Very truly yours,

CADICK, BURNS, DUCK & NEIGHBOURS

By

Attorneys for Sarkes Tarzian, Inc.

EOB:rl:

cc: Mr. W. D. Woods

GC 11

GC 12

June 23, 1966

Mrs. Agnes O. Felty
2515 S. Rogers Street
Bloomington, Indiana

Dear Mrs. Felty:

Thank you for your letter of June 21, 1966, received in this office June 23, 1966.

Since our letter to you of June 15, we have been advised by Sarkes Tarzian, Inc. that you have conferred with Mrs. Del Haynes at that company and had a rather full discussion of the matter of your disability and possible employment. Further, we have been advised by Sarkes Tarzian, Inc. that you were put on medical leave of absence for 30 days on April 26, 1966. Your medical leave of absence was extended for an additional 30 days at your request. This 30 day extension has now expired. In the event you desire an additional 30 day extension of your medical leave and will furnish an additional medical certificate from your doctor, indicating that during such period you may be able to have your physical condition cured or improved sufficiently to permit your return to work, the Company is willing to grant such second additional 30 day extension of your medical leave. At the time of your return to work, you will then be required to furnish an unconditional clearance to work from your doctor.

Very truly yours,

CADICK, BURNS, DUCK & NEIGHBOURS

By _____

D. C. Duck

Attorneys for Sarkes Tarzian, Inc.

703:

GC 12

Donald J. Duck, Atty.-at-Law
Cadick, Burns, Duck and Neighbours
800 Union Federal Bldg.
45 North Pennsylvania St.
Indianapolis, Indiana 46204

2515 South Rogers Street
Bloomington, Indiana

July 1, 1966

Dear Mr. Duck:

Received your letter of June 23, 1966, as of today; thank you, but your letter is full of mis-statements, evidently due to mis-information from Sarkes-Tarzian, Inc.

You state, I was put on "medical leave of absence" for 30 days on April 23, 1966. I did not then, nor since then, have I requested any "medical leave of absence. I returned to work on April 25, 1966, ready and willing to work on any job that did not directly expose me to solder smoke. I was personally escorted out of the plant by Mr. Jennings Polley, Production Manager.

You further state, that 30 day "medical leave of absence" was extended for an additional 30 days, at my request. As I have already stated, I did not request any original "leave" nor have I requested any extension, and further I am not requesting another 30 day extension as you suggest, because I feel I have been indiscriminately discharged or laid-off, as there are many jobs available in the plant on which I have experience, that are being performed by employees with much less length of service with the Company, than I have.

I am ready to return to work immediately on any job that will not directly expose me to solder fumes. The Company has such jobs available and they were aware of my condition as of Dec. 13, 1965, when they accepted me under the same conditions that exist today in regard to solder fumes, therefore I see no reason why I should not be placed on one of those jobs now.

I asked a question in my letter of June 21, 1966, that you failed to answer, and it is most important to me, so I will ask you again,-- does this mean that the Company does not have any intention of allowing me to return to work?

I will await your reply, or Sarkes-Tarzians call for me to return to work on a job that does not expose me to solder fumes.

cc: MEMB - 25th Region
Case # 25 - CA - 2490

Respectfully,

Agnes O. Felty
Agnes O. Felty

25CA2490
25CA2534
25RC2308
Docket No. OFFICIAL EXHIBIT NO. AC13

Disposition { Identified ☒
Reviewed ☒
Rejected ☐

In the matter of *Sarkes-Tarzian, Inc.*
Date *9-26-66* Witness *Seare* Reporter *ajt*
No. Pages *1*

GC#14

PAUL J. WENZLER, M. D.
LOUIS BYRNE, M. D.
311 E. KIRKWOOD AVENUE
BLOOMINGTON, INDIANA 47403

TELEPHONE 336-6335

February 12, 1966

TO WHOM IT MAY CONCERN:

Revs Robertson started a new job last night which involves inspecting an item which comes out of the machine shop. Due to the large amount of dust and material in the air created by this machine, the patient had difficulty with wheezing, coughing, etc. If it is at all possible, we suggest that Mrs. Robertson be removed from this area.

Sincerely,

P. J. Wenzler

Paul J. Wenzler, M.D.

25CA 2490
25CA 2534
25RC 2308
Docket No. 25RC 2308 OFFICIAL EXHIBIT NO. GC 14

Disposition { Identified ☒
Received ☐
Rejected ☐

In the matter of *Barbara Ferguson, Inc*
Date *9-26-66* Witness *Sears* Reporter *af*
No. Pages *1*

RESPONDENT'S EXHIBITS

R#1

F-114 REV. 2

TO/FROM: PERSONNEL DEPARTMENT

DATE: 6-6-66

RE: WORK RECORD

NAME: Sandra Laven

CLOCK NO. 4463

1. PROBLEM: (Please state problem.)

Failure to make rate during two
week training period.

The Co-Worker has been consulted regarding the above problem. He/she will be on trial until November 10-13, to determine whether the requirements of the job can be met. On this date the Co-Worker will be advised as to whether progress has been satisfactory.

Personnel Dept. _____

Immediate Supervisor: Harold L. Trinkle

+++++

2. SETTLEMENT OF PROBLEM: (Follow-Up)

Sandra Laven

- ☐ Co-Worker has performed satisfactorily.
- ☐ Co-Worker has improved, but still not satisfactory.
TRIAL PERIOD EXTENDED TO _____
- ☒ Co-Worker unable to adapt to job requirements.

RECOMMENDATION BY PERSONNEL DEPARTMENT: _____

DATE: _____

BY: _____

Robby Bennett

R-2
Started in s/w 5-24-66

5-24	5-25	5-26	5-27
5 1/2 trays	10 1/2 trays	13 trays	13 1/2 trays

5-31	6-1	6-2	6-3	6-6
5 trays	absent	14 1/2 trays	12 trays	16 trays

-7	6-8	6-9	6-10
5 trays	12 1/2 trays	13 1/2 trays	11 1/2 trays

-13	6-14	6-15
3 1/2 trays	15 1/2 trays	16 trays

Rate 29 trays

Edward D. Frink Jr.

SARKES TARZIAN, INC.
Termination Report

Date: 6-16-66 R=13

Personnel Department

Name Bobby L. Bennett

SW

Clock No. 1221

Last day of work 6-15-66

Social Security No. 515-41-1065

Address 914 N. 1st St
City

REASON

QUIT TO ENTER OTHER EMPL. OR SELF-EMPL.

QUIT TO ENTER SCHOOL OR MILITARY SERVICE

QUIT BECAUSE OF PHYSICAL CONDITION-ILLNESS,
INJURY OR PREGNANCY

CAUSE UNKNOWN-QUIT VOLUNTARILY WITHOUT GOOD
CAUSE

QUIT TO STAY HOME (MARRY OR BECOME HOUSEKEEPER)

QUIT-MOVING FROM LOCALE WITH SPOUSE

OTHER QUIT OR RELEASE REASON (EXPLAIN FULLY BELOW)

RELEASED FOR MISCONDUCT IN CONNECTION WITH WORK

RELEASED DUE TO EXCESSIVE ABSENTEEISM OR TARDINESS

RELEASED FOR ADMITTED OR PROVED DISHONESTY IN CON-
NECTION WITH WORK

RELEASED-JOB DISCONTINUED OR INDEFINITE LAY-OFF
DUE TO LACK OF WORK

RELEASED-ABSENT OVER 3 DAYS WITHOUT NOTIFICATION

RELEASED-TEMPORARY JOB FINISHED

RELEASED-UNABLE TO PERFORM JOB DUTIES SATISFACTORILY

Give brief detailed explanation of above checkoff Term. Unable to make rate

Left with days notice Left without notice

CLEARANCES

(PERSON RESPONSIBLE IS TO INITIAL IN APPROPRIATE SPACE BELOW-PAYCHECK NOT TO BE GIVEN OTHERWISE)

(ST) OK

TOOLS RETURNED

ATHLETIC EQUIPMENT RETURNED

POOL PASS RETURNED

KEYS RETURNED

TRAINING BOOKS RETURNED

CREDIT CARDS RETURNED

IDENTIFICATION CARD RETURNED

OTHER

ITEMS NOT RETURNED

VALUE OF ITEMS NOT RETURNED

Personnel Exit Interview Comments:

Signed Immediate Supervisor

Department

Division

SARKES TARZIAN, INC.
Termination Report

Date: 6-16-66 ^{R-4}

to: Personnel Department

Name Sandra Laven

SW

Clock No. 4463

Address Appt #5 Nov 7

Last day of work 6-15-66

City

Social Security No. 513-14-6912

REASON

- ☐ QUIT TO ENTER OTHER EMPL. OR SELF-EMPL.
☐ QUIT TO ENTER SCHOOL OR MILITARY SERVICE
☐ QUIT BECAUSE OF PHYSICAL CONDITION-ILLNESS, INJURY OR PREGNANCY
☐ CAUSE UNKNOWN-QUIT VOLUNTARILY WITHOUT GOOD CAUSE
☐ QUIT TO STAY HOME (MARRY OR BECOME HOUSEKEEPER)
☐ QUIT-MOVING FROM LOCALE WITH SPOUSE
☐ OTHER QUIT OR RELEASE REASON (EXPLAIN FULLY BELOW)

- ☐ RELEASED FOR MISCONDUCT IN CONNECTION WITH WORK
☐ RELEASED DUE TO EXCESSIVE ABSENTEEISM OR TARDINESS
☐ RELEASED FOR ADMITTED OR PROVED DISHONESTY IN CONNECTION WITH WORK
☐ RELEASED-JOB DISCONTINUED OR INDEFINITE LAY-OFF DUE TO LACK OF WORK
☐ RELEASED-ABSENT OVER 3 DAYS WITHOUT NOTIFICATION
☐ RELEASED-TEMPORARY JOB FINISHED
☐ RELEASED-UNABLE TO PERFORM JOB DUTIES SATISFACTORILY

Give brief detailed explanation of above checkoff

Term. Unable to make rate.

Left with days notice Left without notice

CLEARANCES

(PERSON RESPONSIBLE IS TO INITIAL IN APPROPRIATE SPACE BELOW-PAYCHECK NOT TO BE GIVEN OTHERWISE)

(JR)

- ☐ TOOLS RETURNED
☐ ATHLETIC EQUIPMENT RETURNED
☐ POOL P. IS RETURNED
☐ KEYS RETURNED

- ☐ TRAINING BOOKS RETURNED
☐ CREDIT CARDS RETURNED
☐ IDENTIFICATION CARD RETURNED
☐ OTHER

ITEMS NOT RETURNED 1 reg

VALUE OF ITEMS NOT RETURNED 1.05

Personnel Exit Interview Comments:

Signed Immediate Supervisor Howard Trinkle

Department SW

Division James

P-5

P-114 REV. 2

TO/FROM: PERSONNEL DEPARTMENT

DATE: April 22, 1966

RE: WORK RECORD

NAME: Barbara Meadows

CLOCK NO. 4571

1. PROBLEM: (Please state problem.)

Failure to make rate during three
week training period.

The Co-Worker has been consulted regarding the above problem. He/she will be on trial until April 29, 1966, to determine whether the requirements of the job can be met. On this date the Co-Worker will be advised as to whether progress has been satisfactory.

Personnel Dept. _____

Immediate Supervisor: Howard Trimble

+++++

Barbara Meadows

2. SETTLEMENT OF PROBLEM: (Follow-Up)

- ☒ Co-Worker has performed satisfactorily.
- ☐ Co-Worker has improved, but still not satisfactory.
TRIAL PERIOD EXTENDED TO _____
- ☐ Co-Worker unable to adapt to job requirements.

RECOMMENDATION BY PERSONNEL DEPARTMENT: _____

DATE: _____

BY: _____

R-6

TO/FROM: PERSONNEL DEPARTMENT

DATE: 5-3-66RE: WORK RECORDNAME: Ranna MeadowsCLOCK NO. 4571

1. PROBLEM: (Please state problem.)

Failure to make rate during training period
plus one extra week on training

The Co-Worker has been consulted regarding the above problem. He/she will be on trial until probation, to determine whether the requirements of the job can be met. On this date the Co-Worker will be advised as to whether progress has been satisfactory.

Personnel Dept. _____

Immediate Supervisor: Harold Trinkle
Ranna Meadows

+++++

2. SETTLEMENT OF PROBLEM: (Follow-Up)

- ☒ Co-Worker has performed satisfactorily.
- ☐ Co-Worker has improved, but still not satisfactory.
 TRIAL PERIOD EXTENDED TO _____
- ☐ Co-Worker unable to adapt to job requirements.

RECOMMENDATION BY PERSONNEL DEPARTMENT: _____

DATE: _____

BY: _____

To: Personnel Department

Termination Report

Date: 6-20-66

Name Roanna Meadows

SW

Clock No. 4571

Address 221 7th St.

Last day of work 6-10-66

Social Security No. 5213-54-0410

REASON

____ QUIT TO ENTER OTHER EMPL. OR SELF-EMPL.

 QUIT TO ENTER SCHOOL OR MILITARY SERVICE

— QUIT BECAUSE OF PHYSICAL CONDITION-ILLNESS,
INJURY OR PREGNANCY

— CAUSE UNKNOWN - QUIT VOLUNTARILY WITHOUT GOOD CAUSE

____ QUIT TO STAY HOME (MARRY OR BECOME HOUSEKEEPER)

QUIT-MOVING FROM LOCALE WITH SPOUSE

OTHER QUIT OR RELEASE REASON (EXPLAIN FULLY BELOW)

— RELEASED FOR MISCONDUCT IN CONNECTION WITH WORK

— RELEASED DUE TO EXCESSIVE ABSENTEEISM OR TARDINESS

— RELEASED FOR ADMITTED OR PROVED DISHONESTY IN CONNECTION WITH WORK

— RELEASED-JOB DISCONTINUED OR INDEFINITE LAY-OFF
DUE TO LACK OF WORK

— RELEASED-ABSENT OVER 3 DAYS WITHOUT NOTIFICATION

____RELEASED-TEMPORARY JOB FINISHED

____ RELEASED-UNABLE TO PERFORM JOB DUTIES SATISFACTORILY

Give brief detailed explanation of above checkoff Term. Failure to make rate.

Left with ____ days notice ____ Left without notice

CLEARANCES

(PERSON RESPONSIBLE IS TO INITIAL IN APPROPRIATE SPACE BELOW-PAYCHECK NOT TO BE GIVEN OTHERWISE)

1206K TOOLS RETURNED

ATHLETIC EQUIPMENT RETURNED

____. POOL PASS RETURNED

_____ KEYS RETURNED

TRAINING BOOKS RETURNED

CREDIT CARDS RETURNED

IDENTIFICATION CARD RETURNED

OTHER

ITEMS NOT RETURNED

VALUE OF ITEMS NOT RETURNED**Personnel Exit Interview Comments:**

Signed Immediate Supervisor

Department

Division

LEAVE OF ABSENCE/EXCUSED ABSENCE

SARKES TARZIAN, INC.

R-9

NAME Agnes Felty CLOCK NO. 9117
 IS GRANTED ELO FROM 4-23-66
 (Type of leave)
 UNTIL 5-23-66 FOR MEDICAL

APPROVAL:

1/1 DEPT. HEAD 1/1 - 25-66 DATE
E. M. Sears- PERSONNEL DEPT. 4-25-66 DATE
KM

TO CO-WORKER:

If you do not report for work or have not requested an extension by 5-23-66, you will be considered as voluntarily leaving the Company's employ, unless there is justifiable reason for your failure to report.

- All leaves for illness are granted for a period of 30 days. Co-workers must submit a doctor's statement to the Personnel Department for each extension thereafter.
- Co-worker returning from sick leave must present a doctor's certificate indicating ability to return to work.
- Co-workers returning from pregnancy leave:
 - You can not return to work until three (3) months after the date of birth of your baby.
 - You must present a medical certificate indicating the date of birth of the baby, and the doctor's approval for you to return to work.
 - You must report to the Personnel Office not later than five (5) months after the date of birth of your baby (regardless of above extension date) or you will be terminated.

All extensions of leaves of absence must be made through the Personnel Office and will be considered on an individual basis. It is the co-worker's responsibility to follow up on request for extensions.

If you have any questions relative to your leave, please call the Personnel Department.

EXTENSIONS: _____ BY _____ DATE _____

Blue Cross
 letter sent with
 e - also Trans.
 letter

228-M-3-R
12-3-68
(4)

IN THE
United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, *Petitioner*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

SARKIS TABZIAN, INC., *Intervenor*

On Petition to Review an Order of
The National Labor Relations Board

BRIEF FOR PETITIONER

United States Court of Appeals
for the District of Columbia Circuit

FILED OCT 7 1968

SHERMAN AND DUNN

LAURENCE J. COHEN

1200 -15th Street, N.W.

Washington, D.C. 20005

Counsel for Petitioner

Nathan J. Paulson
CLERK

TABLE OF CONTENTS

	PAGE
Statement of Issues Presented for Review	1
Statement of the Case	2
A. Nature of the Case and Proceedings Below .	2
B. Statement of Facts	3
Background	3
1. Discharge of Agnes Felty	4
2. Discharge of Reva Robertson	8
3. Discharge of Bobby Bennett	10
4. Interference, Restraint and Coercion ...	11
a. Harassment of Thomas Beech	11
b. Restroom Surveillance	12
Summary of Argument	13
Argument	14
A. The Board's Findings Are Not Supported by Substantial Evidence in the Record as a Whole	14
1. Discharge of Agnes Felty	14
2. Discharge of Reva Robertson	18
3. Discharge of Bobby Bennett	21
4a. Harassment of Thomas Beech	24
4b. Restroom Surveillance	25
B. The Board's Decision Is Not Saved by the Rule in Universal Camera Corporation	27
Conclusion	35
Appendix	36

Index Continued

	Page
<i>Sarkes Tarzian, Inc.</i> , 149 NLRB 147	3, 19
<i>Sarkes Tarzian, Inc.</i> , 157 NLRB 1193, enfd. 374 F. 2d	
734 (7th Cir.), cert. den U.S. (1967) ..	3, 18, 25, 26
<i>Universal Camera v. NLRB</i> , 340 U.S. 474 (1951)	
	13, 14, 27, 29, 30, 34

Statute:

National Labor Relations Act, as amended (61 Stat.
146, 29 U.S.C. § 151, *et seq.*):

Section 7	3
Section 8(a)(1)	1, 2, 24, 26
Section 8(a)(3)	1, 2, 14, 19
Section 8(a)(4)	2, 3



IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, *Petitioner*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

SARKES TARZIAN, INC., *Intervenor*

On Petition to Review an Order of
the National Labor Relations Board

BRIEF FOR PETITIONER

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the Board erred in refusing to find that the Company violated Section 8(a)(1) of the Act by promulgating its rule against "relaxation" for night shift maintenance men and by engaging in surveillance of certain of its employees.

2. Whether the Board erred in refusing to find that the Company violated Section 8(a)(3) and (1) of the Act by discriminatorily discharging and refusing to reinstate three employees.

(The pending case has not previously been before this Court under the same or any other title.)

STATEMENT OF THE CASE

A. NATURE OF THE CASE AND PROCEEDINGS BELOW.

This case is before the Court on a Petition to Review and Set Aside an Order of the National Labor Relations Board (hereinafter called the "Board"). This Court has jurisdiction under Section 10(f) of the National Labor Relations Act as amended, 29 U.S.C. § 160(f) (hereinafter, the "Act"). The decision and order of the Board are officially reported at 169 NLRB No. 84.¹

Upon a charge filed by petitioner, the General Counsel issued a complaint alleging that Sarkes Tarzian, Inc. (hereinafter called the "Company" or "Employer") had violated Section 8(a)(1), (3) and (4) of the Act by interfering with, restraining and coercing its employees in the exercise of their rights guaranteed by the Act; constructively discharging employees Agnes O. Felty and Reva Robertson by assigning them work which they were physically incapable of performing and which was injurious to their health and well being, and thereafter failing and refusing to reinstate them to their former or substantially equivalent positions of employment, and discharging Bobby L. Bennett, all for engaging in activities protected by the Act.

A lengthy hearing was held before the Trial Examiner, during which thirty witnesses testified. The Trial Examiner, after a careful analysis of the evidence heard by him, concluded that the Company had violated Section 8(a)(1) and (3) of the Act as alleged in the complaint. Having so found, he deemed it unnecessary to pass upon the additional allegation in the complaint that the Company had further

¹ Pursuant to Rules 28(e) and 30(c) of the F.R.A.P. and the prehearing conference stipulation between the parties herein, as approved by this Court in its Order of July 3, 1968, record references in this brief will follow the pagination of the original transcript and exhibits before the Board.

violated Section 8(a)(4) of the Act by refusing to reinstate Felty because unfair labor practice charges had been filed on her behalf. He also found merit to three of the six objections to the conduct of the Labor Board election conducted among the Company's employees on May 12, 1966, which had been referred to him for disposition by the Board's Regional Director. To remedy the unfair labor practices found, the Trial Examiner recommended that the Company offer employees Felty, Robertson and Bennett immediate and full reinstatement to their former or substantially equivalent positions of employment, and make them whole for any loss of earnings suffered by reason of the discrimination against them. He also found it necessary to recommend a broad cease and desist order, requiring the Company to cease and desist from, "in any manner," infringing upon the rights of its employees guaranteed by Section 7 of the Act.

A three-member panel of the Board reversed the Trial Examiner on each of his findings and conclusions, ordered the complaint dismissed in its entirety and certified that a majority of the valid votes in the May 12, 1966, election had not been cast for the petitioner herein.

B. STATEMENT OF FACTS

Background

The events giving rise to this case in 1966 occurred in the context of a four-year organizing drive conducted by petitioner at the Company, dating from April 1962 (R. 242-43). In the course of this campaign, one Board-conducted election in 1963 was set aside and two Board orders have issued against the Company: *Sarkes Tarzian, Inc.*, 149 NLRB 147, and *Sarkes Tarzian, Inc.*, 157 NLRB 1193. The Board's order in the latter case was enforced by the United States Court of Appeals for the Seventh Circuit at 374 F. 2d 734, *cert. den.* —U.S.—, 36 U.S.L.W. 3144 (U.S. Oct. 10, 1967). This Court is respectfully requested to take judicial

notice of these decisions. Because of the importance of judging the events here in question in the context of the Company's four-year history of flouting the letter and spirit of the Act, and because of the relevance of some of the prior findings against the Company to the specific issues raised herein, certain of these prior findings are discussed in succeeding sections of this brief.

Additionally, it is important to note at the outset of the discussion of the three discharges in issue, that all of them occurred in the context of a severe labor shortage. Production manager Polley conceded that there was a "*very critical*" labor shortage in the area and that the Company attempted to keep people whenever possible (R. 371). Personnel manager Sears similarly stated that the Company had advertised on the local radio station for some nine months for employees because, "people are in scarce supply in this community." He admitted that the ad had been on the air "quite a lot" and that similar ads had been run in the local newspaper (R. 23-25). Sears further testified that, because of this severe labor shortage, if an employee has difficulty performing one type of job, the Company will give him an opportunity to try another so that the employee may stay with the Company. He added that the Company had been "bending over backwards" in this regard and that the policy was known by employees (R. 28-29). Polley testified to the same effect (R. 371). In fact, just prior to the May 12, 1966, election, Company president Sarkes Tarzian himself told employees in a speech that, if they could not perform one job successfully, they would be placed on another which they could perform (R. 236-238).

With the above in mind, we turn now to the specific events in issue.

1. Discharge of Agnes O. Felty.

Mrs. Felty was first employed by the Company in April, 1962. For the first six or seven months, she worked on a

crimp and solder line, soldering electronic parts (R. 41). She was then transferred to a machine shop where she worked on various machines until 1965 (R. 42). At that time, she was reassigned to a crimp and solder job and placed between two employees who were using soldering irons. This close exposure to solder fumes made her so ill that she took sick leave on November 23, 1965, after presenting a doctor's statement to Company nurse and "personnel counsellor" Della Haynes.³ She returned to work on December 13, 1965 (R. 43-44), was placed back on her old line and immediately was again bothered by the solder fumes (R. 44-46). She brought another doctor's statement to the Company and was then given work as a tester. From there, she returned to the machine shop and thereafter was given a rivet base job. In none of these jobs was she in close contact with solder fumes, and she encountered no medical difficulty (R. 45-48).

Felty was active during the 1962 organizing campaign (R. 50-51) and, in March 1966, again became an active union worker. She attended the first meeting of the organizing committee on March 17, 1966, and subsequent meetings on March 23 and March 31, as well as open union meetings on April 6 and 14. During this period she openly passed out cards at the plant on her lunch hour (R. 51-54).

Then, on April 19, 1966, her work line was broken up and she lost her rivet base job. She was reassigned to a crimp and solder job, once again exposing her to the injurious solder fumes. One Margaret Hopkins, who had been employed by the Company only four or five months, was reassigned from the same dissolved line to another rivet base job which Felty could have performed with no medical difficulty (R. 54-56). Moreover, it was a job which Felty had previously performed well (R. 403).

³ The significance of the varied roles played by Haynes at this time and during the earlier campaign is shown in some detail in subsection 4b of the Argument, *infra*.

Following her reassignment to the new crimp and solder job, Felty spoke to production manager Polley about her inability to work near the solder fumes. Although Polley admitted that he was aware of her condition and that there were other jobs which would not cause her a problem, he told her that he would not assign her to such a job because he had to "save them for older girls" (R. 54-57).³

The next day, April 20, she again attempted to obtain a transfer and spoke unsuccessfully to nurse Haynes, Polley and his assistant, Anna East. Once again, Polley conceded that he had other jobs to which he could assign her but that he would not do so and that, if she couldn't do the work to which she was presently assigned, he would "probably have to let [her] go." She returned to her work station between two soldering irons, became ill and left the plant for the day at 8:30 a.m., an hour and a half after she had reported to work (R. 57-61).

On Monday, April 25, Felty returned to the plant with another doctor's statement which she gave to Haynes. She was then rushed from Haynes to East to Polley and, with the latter, back to Haynes' office. There, Polley placed her on medical leave and rushed her out of the plant so fast that she was not even allowed to check in her own tools before leaving, or to pay a debt to one of the girls with whom she rode to work. Then, when she stated that she would return the following Friday to pick up her check, Polley insisted that he would mail it to her instead. He thereupon escorted her personally to the outside door (R. 62-64). (Later that week, when Polley forgot to mail the check, he personally went to the plant to get it on the following Sunday morning and drove it to Felty's home (R. 64-65)!) If Polley's haste in rushing Felty from the plant on April 25 appears strange, his conduct may well be explained by the

³ The Company's defenses with respect to its alleged seniority policy and its "patterns" are discussed under the Argument section of this brief, *infra*.

fact that she reported for work on that date wearing a large IBEW organizing committee badge (R. 65-67). It is also noteworthy that the events of April 19-25, which resulted in Felty's being placed on medical leave, occurred just a month after the first 1966 meeting of the organizing committee and her subsequent open work on behalf of the union in the plant. There is no denial on the record by the Company of its knowledge of her union activity. Indeed, there is specific evidence of Company spying to confirm its knowledge of her union activity. One Dolores Dugan searched Felty's purse until she found the IBEW authorization cards which Felty had been passing out and immediately reported first to foreman Wampler and then to the medical dispensary of which Haynes was in charge (R. 70-72).

On June 20, 1966, Felty returned to the plant to inquire about her job. She was taken to see Company general counsel Woods, who first demanded that she obtain a doctor's statement saying that she could perform any job in the factory, a condition he knew was impossible to fulfill. He then added that, "under these circumstances I cannot call you back to work and I can't let you go." He offered no explanation as to whether this cryptic reference was to her refusal to comply with an impossible physical condition of employment or, possibly, to the fact that charges had been filed with the Board several weeks earlier alleging that her discharge was unlawful (R. 69-70).

It is undenied that at all pertinent times Felty was able to perform a variety of jobs in the plant which would not have brought her into direct contact with solder fumes and that such jobs were then open. In fact, in May of 1966 there were approximately 1500-1600 persons working in the production department and, as noted above, the Company continued desperately to seek additional employees. Polley testified contradictorily in this regard that there wasn't any place in the entire plant where an employee is not exposed

to soldering fumes (R. 340-341), but then admitted that Felty had no problem when she was working on the rivet base job (R. 358-360).

2. Discharge of Reva Robertson.

Mrs. Robertson had worked for the Company on three separate occasions, her most recent employment beginning January 31, 1966. She started as an inspector in quality control and, on February 12, 1966, was sent to work in a small enclosed area known as the stick room. She had to be taken from this room after working there for only two hours because the fiberglass dust aggravated her asthmatic condition (R. 89-90).

Around mid-April 1966, she began attending union meetings and displaying large union buttons on her clothes and purse. Like Mrs. Felty, she passed out both IBEW authorization cards and union literature at work (R. 100-101). Virtually simultaneously, Robertson and her fellow worker, Anna Branam, who was also wearing a union button, were followed whenever they went into the ladies restroom and were kept under constant surveillance (R. 93-99).

On May 12, 1966, she asked night foreman Payne why she and Branam were being watched. He replied that some of the other girls were complaining that they wanted a quality control job (which Robertson had), that everyone was acting funny lately and that he didn't know if it was because people were wearing union buttons. He added that he knew how Branam and Robertson stood before they started wearing their union buttons. He actually admitted that Grace Porter, one of the group leaders, was watching Branam and Robertson (R. 101-104). With reference to Payne's statement that other girls would like her job, Robertson sarcastically stated that, if they wanted to see if her job was as easy as they thought it was, she would trade with them and let them try her job for a while (R. 102, 112).

On May 18, she spoke to Jennings Polley about being watched. Also present were Branam and quality control foreman Parish. Polley did not deny that Robertson was being kept under surveillance; nor did he offer any explanation (R. 108-109).

On May 19, the very next day, Robertson and others on her line were called together and advised that there had been a cutback. Robertson was told that she would have to go back on quality control at nights and that the only job there available for her was into the stick room where she had previously had the difficulty with the fiberglass dust. When she reminded Payne and Parish of her previous problem, she was told that she could take a coil winding (crimp and solder, R. 229, 114) job. She again protested that she had previously been taken off of solder work because of the fumes. At this point in the conference, Branam offered to take a layoff and thereby to let Robertson keep her present job, and employee Rita Clemons (who was senior to Robertson) offered to take the job in the stick room and to let Robertson keep her present job. Neither offer was accepted by Payne or Parish, and Robertson was told to go home and decide which job she would accept (R. 104-106). Parish called Robertson the next day and told her that there would be no change (meaning that the offers of Branam and Clemons would not be accepted by the Company). He then asked whether she was terminating from the plant and, when she replied merely that she couldn't take either the dust or the solder fumes, he thanked her and quickly hung up. She had previously brought in a doctor's statement to the effect that she was unable to have contact with solder fumes. (General Counsel Ex. 14.) Her work at the Company has never been criticized (R. 106-107).

Since Robertson's discharge, a new employee, Jeanette Lockhart, who was not even in the quality control department when Robertson was terminated, has performed the same duties there that Robertson previously performed (R.

211-213). Quality control foreman Parish admitted that, although he had 35-40 people working in quality control on the day shift (Robertson worked on the night shift), he didn't bother to check to see if any of them was junior to Robertson or to see if she had any right to a job on the day shift of quality control (R. 391-392).

3. Discharge of Bobby Bennett.

Mrs. Bennett was employed by the Company on January 13, 1966, and was discharged on June 15, 1966. For the first four months of her employment, she worked on several jobs, including a rivet base job on which she made the required production rate (R. 158-159). On May 24, she was transferred to a stick winding job on which she never made required rate. On June 15, she was advised of her discharge by Della Haynes. When Bennett pointed out that she had made her production rate on the rivet base job, Haynes stated that there was no other available work for her at the time (R. 163).⁴

Bennett's activity on behalf of the union was even more open and notorious than that of Felty and Robertson. Like the others, she was a member of the organizing committee, attended union meetings and prominently displayed a union button (R. 163-165). In addition, at a speech by Company president Tarzian shortly before the May 12 election, Bennett declared during a question and answer period that she was "100% for the union" and urged the employees assembled to make the "right decision." She also asked Mr. Tarzian how he could claim that he would be hurt financially if the union came into the plant and yet afford to build a plant in Free China (R. 165-166). Similarly, after a speech by Mrs. Tarzian, she engaged Mrs. Tarzian in a discussion

⁴ Haynes' statement is strangely at odds with the Company's admitted continuing need for new employees; see pp. 4, *supra*. It is also at odds with Foreman Trinkle's assurance to Bennett that she could try another job if she did not make rate on stick winding (R. 152-153).

concerning the merits of unionism. Mrs. Tarzian then told Bennett in front of the other employees, "Well, maybe you should go where they have one and see what it's like," but added that Bennett should not tell "them" that she was told to leave the Company's employ (R. 166-168). The next day, Bennett was called to Mrs. Tarzian's office in the plant and there introduced to a girl who began telling her about the evils of unionism at the RCA plant in Bloomington (R. 168-169).

Although it was admitted that Bennett's production fell short of the required rate, Bennett testified without contradiction that she had been shifted continuously from one machine to another, and on one day actually worked on seven different machines before the noon break (R. 161), a factor affecting the number of trays put out (R. 318).

4. Interference, Restraint and Coercion.

a. Harassment of Thomas Beech.

On April 14, 1966, Thomas Beech, a maintenance man on the night shift, became the first such employee to wear a union button on that shift. He was immediately told that he was being transferred to the day shift, even though the Company knew he could only work nights. When Beech questioned the transfer, he was told that it was ordered by production manager Polley. Beech saw Polley the next day, and Polley rescinded his order. Polley claimed that the transfer was a mistake because he thought that Beech was a "cam man." Beech, however, had no training whatsoever as a cam man (R. 124-126, 136), and Willard Barlow, the youngest cam man on the night shift at that time, was not asked to transfer to the day shift (R. 456-457).

But this was only the beginning. The next night, Beech, who had a regular assignment as a maintenance man for the newest set of machines in the plant, was suddenly reassigned to older machines requiring considerably more work (R. 127-129). The record is clear in this regard that mainte-

nance men were assigned to a specific set of machines during their work (R. 453, 472-473, 478). And, simultaneously, Beech was placed and thereafter kept under constant surveillance until he quit on April 22, 1966 (R. 133-135, 144-145).

Finally, the "relaxation" habits of the maintenance men prior to April 15, 1966, were drastically changed on that date. Beech and the other maintenance men were then advised that they were no longer to sit around talking to the girls when they had no work to perform (R. 129-131). That this sudden departure from practice was directed at Beech was clearly revealed by employee Dolly Merida who heard assistant foreman Grace Porter instruct group leader Sharon George "to watch Tom Beech and if he sat down to report him" (R. 118; 96-98). Group leader Emily White testified that she could not recall a time prior to this when she, as a group leader, was told to keep her eye on the maintenance men and report them if they were not busy (R. 486). Then, as suddenly as the rule had been imposed following the appearance of Beech's union button on April 14, it disappeared following his departure on April 22! The prior practice of the maintenance men relaxing and talking to the girls resumed immediately upon Beech's departure and was still going on at the time of the hearing in September of 1966 (R. 209, 473, 475).⁵

b. *Restroom surveillance.*

The surveillance of employees Branam and Robertson in the ladies' restroom has already been referred to (pp. 10-11,

⁵ Production manager Polley attempted to justify the rule against relaxation on the ground that there was a continuing problem with night shift production. He stated in this regard that this has been a problem during the twelve years in which he has held his position (R. 322, 355). He did not explain, however, why, if he has had the problem for twelve years, the new rule was not put into effect until the day after Beech began wearing his union button and was no longer necessary when Beech quit, just one week later.

supra). Although one of the asserted reasons for this surveillance was the Company's alleged new rule against working partners on assembly lines going to the restroom together, the timing of the application of the rule to Branam and Robertson—at the same time they began wearing their union buttons—seems more than coincidental. Robertson also testified that she was followed into the restroom, even when she went alone, by a group leader or assistant foreman who would remain in the ladies' room during the entire period in which she was there (R. 95). One of those who followed Robertson was assistant foreman Porter who openly announced to employees that she “knew everybody that was going” to the union meetings (R. 249-251). Porter also followed Branam into the restroom and remained while she was there. Moreover, Porter and foreman Payne would sit directly in front of the restroom and write down on a pad of paper every time a girl would go in and out (R. 205-206). In addition, both Robertson and Branam were watched carefully even when performing their normal work in the plant (R. 102, 205, 211).

SUMMARY OF ARGUMENT

As found by the Trial Examiner, the Company's conduct in this case violated the sections of the Act alleged in the complaint. The Board's contrary findings are not supported by substantial evidence in the record as a whole, and its failure to accord the Trial Examiner's factual findings the weight to which they are entitled requires reversal by this court. *Universal Camera v. NLRB*, 340 U.S. 474. The Trial Examiner's decision itself represents an important part of the record before the reviewing court, and the evidence supporting the Board's conclusion may be considered less substantial when the Trial Examiner, who has observed the witnesses, has made findings and reached conclusions different from those of the Board. *Universal Camera v. NLRB*, *supra*, at pages 493, 496. Although there is no set

standard for reviewing courts where the Board has disagreed with its Trial Examiner's factual findings and the inferences drawn therefrom, the Supreme Court has recently emphasized that great weight must be placed upon the fact that only the Trial Examiner has had the advantage of observing the witnesses. *NLRB v. Walton Manufacturing Company*, 369 U.S. 404.

The Trial Examiner in the present case heard three full days of testimony from thirty witnesses. His decision represents a careful analysis of the factual background and events, including resolutions of credibility conflicts. The Board, however, has selectively rifled the record in order to support conclusions contrary to those of the Trial Examiner. Under the tests of *Universal Camera* and *Walton*, *supra*, its decision cannot, therefore, be said to be supported by substantial evidence in the record as a whole.

ARGUMENT

A. THE BOARD'S FINDINGS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD AS A WHOLE.

We have set forth above most of the pertinent facts with respect to each of the findings here in issue. We shall now demonstrate that none of the Board's findings can be said to be supported by substantial evidence. For the convenience of the Court, these issues will be discussed below in the order set forth in the Statement of Facts, *supra*.

1. Discharge of Agnes O. Felty.

The Trial Examiner found that the Company constructively discharged Felty in violation of Section 8(a) (3) of the Act by transferring her on April 19, 1966, to a job which it knew she could not perform. He found a further violation in the refusal to reemploy her on and after April 25, 1966. In so holding, he found that the Company's position,

when it had some 1500-1600 employees in three separate plants and while it was continuously seeking new employees through radio and newspaper advertising, that it was unable to find a job which she was physically able to perform, "incredible." He noted in this regard that, in June of 1966, the Company's labor counsel continued to insist that she agree to a condition of employment which was physically impossible for her to fulfill. He relied on an exchange of correspondence between Felty and Donald C. Duck, counsel for the Company, concerning Felty's desire to return to work. In Mr. Duck's letter of June 15, 1966 (General Counsel's Exhibit 11), he stated that she would have to furnish a "written statement or certificate from your doctor to evidence that in his opinion you are now sufficiently recovered, that contact with solder fumes will no longer be injurious to your health, and that you may therefore be assigned to a job where you may be in contact with such fumes." In his letter of June 28, 1966, to Felty, Mr. Duck added that if Felty returned to work, she would "then be required to furnish an *unconditional clearance to work* from your doctor" (General Counsel Exhibit 12). (Emphasis supplied.) It will be recalled here that the same impossible condition was imposed by Company general counsel Woods on June 20, 1966 (R. 69-70).

The Board found, however, that Felty was not constructively discharged. Essentially, it relied on four factors, all of which are without merit. First, the Board noted that she was given a leave of absence in November 1965 and then reassigned to a job where there was no problem with solder fumes when she returned a month later. The simple answer lies in the timing: Felty received her leave of absence in November of 1965, while the renewal in union activity at the Company began in March of 1966. Her reassignment then followed closely upon this renewed activity by union adherents, chief among them Felty. Although Felty had been an active union worker in the 1962-63 campaign, there had been little open activity since the 1963 election, as the

Board considered the various charges and IBEW objections to the election conducted then. Indeed, the Board's Decision reported at 157 NLRB 1193, finding a host of violations against the Company and ordering a second election, did not issue until March of 1966, at the time of the renewed organizational drive by the union. Therefore, the Company's treatment of Felty during the period of quiescence in November-December of 1965 cannot serve as a defense to the discrimination against her in April of 1966 when the organizational campaign was once again building to a peak.

Second, said the Board, she was assigned to *crimp* work and not to *solder* work on April 19, 1966. This is totally specious, for the simple reason that the crimp work to which she was assigned placed her directly between two employees working with solder irons and thus fully exposed to the solder fumes! Indeed, this placed her precisely in the situation from which she had to take medical leave in November of 1965.

Third, the Board attempted to negate the effect of the assignment of Margaret Hopkins, see page 5, *supra*, to a job which Felty could have performed with no medical problem by asserting that the job which Hopkins got was only "temporary." This position does not withstand examination. Thus, Company witness East admitted that she could have placed Felty on the job given to Hopkins, and Polley admitted on cross-examination that the very line on which Felty had worked was reestablished only two weeks later with jobs which Felty could have performed (R. 367-368). Additionally, on April 19, when Hopkins was assigned a rivet base job, other girls were assigned to the tube room (R. 54-57).

Finally, the Board relied on certain alleged policies of the Company and its use of "patterns." This requires some discussion of the Company's purported seniority policy and its use of these "patterns." It will be recalled in this regard that Polley told Felty on several occasions that he had oth-

er jobs which she could perform but that he "had" to save them for the older girls. It was revealed, however, that the seniority policy and the system of patterns were known only to Company officials and were not set forth in writing or made known to employees as existing work rules (R. 35-36, 369-370). Moreover, even assuming that a seniority policy existed as such, it simply wasn't followed. Thus, personnel manager Sears stated that the Company recognizes both seniority and ability and that "ability on the job is first" (R. 26). Similarly, Anna East, assistant to Polley, revealed clearly that there is no consistent practice of following seniority (R. 403-404).

The facts concerning the "crucial" patterns are even more ludicrous. A "pattern" apparently is something akin to a job classification and, according to the Company, makes all the difference in the world as to what type of job employees may perform. Although there are so-called lower skilled patterns and higher skilled patterns, however, all employees receive the same pay regardless of the pattern to which they are assigned for the skills involved (R. 38-39, 362). Polley revealed another fascinating aspect of this "rigid" system of patterns, namely, that some people working in the machine shop do not have machine shop patterns and that some people who do have machine patterns do not actually operate a machine. In fact, throughout Polley's twelve years in the plant, employees have been loaned around from pattern to pattern (R. 366, 377). Recall also that, although Felty had a crimp and solder pattern, she spent three years working in the machine shop, from 1962-1965 (R. 41-42). Employee Helen La Sure also testified that, following a medical leave, she was placed as a coil winder, which is a crimp and solder classification, and that prior to her leave she had been a tuner tester, which is a different classification (R. 229-230). In short, we submit that the Company's seniority "policy" and its system of "patterns" were used merely at its whim and, in some instances, as a means to further its discriminatory practices.

As noted by the Trial Examiner, the events surrounding Felty's reassignment occurred in the context of an admitted labor shortage, with constant advertising by the Company to obtain employees, as well as its admitted attempts to retain existing employees.⁶ Add to this Felty's open and notorious union activity, with no denial of Company knowledge, her rush to the door by Polley when she returned to the plant on April 25 wearing a large organizing button, and Company knowledge of her physical disability, and it is submitted that what emerges is a classic case of a constructive discharge. It is, of course, well settled that, "Section 8(a) (3), when it speaks of 'discrimination in regard to . . . condition of employment,' includes an unreasonable and improper condition for retaining employment as well as actual discharge." *NLRB v. Ra-Rich Manufacturing Corp.*, 276 F. 2d 451, 454 (2nd Cir. 1960). See also *NLRB v. Roxboro Cotton Mills*, 200 F. 2d 765 (4th Cir. 1952); *NLRB v. Monroe Auto Equipment Company*, 392 F. 2d 558 (5th Cir. 1968). It will also be recalled that the position advanced by the Company through Polley was not credited by the Trial Examiner (see page 9 of TXD).⁷ And, "Of course, since motivation is largely a question of intent, it is primarily an issue of fact [citations omitted]." *Greco v. NLRB*, 331 F. 2d 165, 169, at n. 1 (3d Cir. 1964).

2. Discharge of Reva Robertson.

The bases advanced by the Board for overturning the Trial Examiner's finding that Reva Robertson was constructively discharged are on no firmer ground. Robertson's

⁶ See p. 4, *supra*.

⁷ In *Sarkes Tarzian, Inc.*, 157 NLRB 1193, Polley was found to have been aware of the discriminatee's union activity (157 NLRB at 1196, 1224) and was discredited as a witness by the Trial Examiner (157 NLRB at 1233).

case is, of course, strikingly similar to that of Agnes Felty.⁸ The Trial Examiner found, relying in part on his credibility resolutions concerning the testimony of Company witnesses Grace Porter and Wilbur Parish, that Robertson had been constructively discharged by virtue of her assignment either to the stick room, from which she had previously been removed for health reasons, or to a coil winding job near solder fumes which were also injurious to her health.

In reversing, the Board first found as evidence that the Company did not unlawfully insist that Robertson take a job in the stick room the fact that it offered her an alternative job. In other words, this "benevolent" Employer, when made aware of the fact that it had assigned Robertson to a job she could not physically perform, immediately granted her the option of taking another job which it knew she was physically unable to perform. This Hobson's choice offered to Robertson not only does not reveal that she was not discriminated against; it does reveal just how far the Board was reaching to overturn the factual findings of its Trial Examiner. But, the Board did not stop there. After simply passing off Robertson's medical history concerning solder fumes as "stale," it picked a statement from the record out of context which it said revealed that she had offered to ac-

⁸ It is also strikingly similar to the technique used by this Company to rid itself of John Roberts, for which it was found to have violated Section 8(a)(3) of the Act. 149 NLRB 147. The Board there found that the Company engaged in a campaign of some nine months duration to fabricate a pretext to discharge Roberts, a seven year employee who was a victim of cerebral palsy since birth. It did so by assigning him to a new job, considerably more difficult than his former jobs, which it knew he would be unable to perform in view of his physical condition. In part, the Board there relied on evidence of disparity of treatment accorded to another handicapped employee. It was further found that General Counsel's witness "Corky" Salee had been marked, prior to the start of the campaign against Roberts, as the Company's next victim should its campaign against Roberts succeed.

cept a job as a coil winder only a week previous to turning it down for medical reasons. This, said the Board, casts doubt on the legitimacy of Robertson's rejection of the post. But, let us examine the manner in which the question was raised, as well as Robertson's precise answer. Payne had told Robertson that some of the girls who were coil winders were complaining because they wanted a job in quality control (like Robertson). Robertson then replied:

"I told him that if they wanted a job [in quality control] I would trade with them for a while. He said they probably wouldn't accept it." (R. 102)

She added that:

"I said I would offer and let them have my job for a while *if they wanted to see if it was as easy as they thought it was.*" (R. 112) (Emphasis added.)

While one might expect some advocates to rifle the record in an attempt to make a sarcastic retort appear to constitute a *bona fide* offer to take a job, it is a little surprising when an agency of the Federal Government does the same in what is supposed to be an objective fact-finding role.

Finally, concerning the offers of Branam and Clemons (see page 9, *supra*) to allow Robertson to keep her present job, the Board accepted the Company's claim that it does not permit employees to decide who shall take layoffs or to choose their own positions. It added, "There is no evidence that Respondent varied this practice for other employees in other circumstances."⁹ The simple answer to this is that there is no evidence of any practice, period! In this regard, we have discussed above some of the Company's other "firm" practices and policies.

On the other hand, the evidence supporting the Trial Examiner's finding of an unlawful constructive discharge is virtually overwhelming. Robertson was an active union worker and was under constant surveillance by the Com-

⁹ Board Decision, at p. 11.

pany from April 1966. Porter's contrary testimony was not credited by the Trial Examiner, and Payne virtually admitted that she was being watched. Similarly, the Company was aware of Robertson's physical disabilities and yet offered her the choice of two jobs it knew she could not perform. Moreover, it easily could have found another job for her, particularly in view of its need for employees, *supra*. Although it insisted on moving Robertson because of its seniority policy, we have shown above that the seniority which existed at this Company was an excuse rather than a policy. And, although Parish denied that he had any other job she could perform, he later had to admit on cross-examination that there were 35 to 40 people on the day shift in quality control, that some of them may have had less Company seniority than Robertson, but that he did not even bother checking to see if her seniority would have entitled her to an offer of such a job. In fact, he admitted that he didn't recall thinking about the overall seniority question at all (R. 391-392)! Finally, a new employee, Jeanette Lockhart, who was not in the quality control department when Robertson was terminated, has been performing the same job that Robertson performed prior to her discharge (R. 211-213).

3. Discharge of Bobby Bennett

Mrs. Bennett was discharged on June 15, 1966, on the stated ground that she had failed to make the required production rate on her stick winding job. The Trial Examiner found that this stated ground was merely a pretext and that she had been discharged for her activities on behalf of the union. In part, he relied on several aspects of disparity of treatment between Bennett and others.

The Board reversed, essentially on the theory that no disparate treatment of Bennett was shown. This conclusion is clearly refuted by the record. We examine now the specific examples of this disparate treatment.

The first such example is Sandra Laven, who was discharged the same day as Bennett. Laven had been employed only about a month and, unlike Bennett, had never successfully performed *any* production job for the Company. On her discharge date, Della Haynes personally told her that she would speak to someone in personnel to see if another job could be found for Laven after the vacation period. Thereafter, Laven was called by someone in the personnel department and told to report in after the vacation period. She did so and was rehired by the Company (R. 146-150). No contention is made that any such assistance was afforded to Mrs. Bennett. The Board simply disposes of the above by saying that Laven's case and Bennett's are distinguishable because Laven reapplied for another job with the Company and Bennett did not. But, this ignores the fact that Laven, who was discharged on the same date as Bennett, was specifically *told* to reapply for a job during her discharge interview and was then called at home by the Company and told to report to work! Once again, the Board's handling of this incident more closely resembles that of an advocate than of an arbiter.

Example No. 2 is Betty McLaughlin, who was transferred to the stick winding department at the same time as Bennett. However, she advised foreman Howard Trinkle that she would quit if not returned to her previous job. In the face of this threat, Trinkle immediately transferred her as she requested (R. 319-320). Again, the Board claims that Bennett's situation and McLaughlin's were not comparable because there was no element of dissatisfaction with McLaughlin's work. But the point is that other jobs were available and that McLaughlin's demand for a transfer was granted in the face of what might properly have been viewed as insubordination, while Bennett's request for another job was summarily denied. This incident also reveals that, in keeping with its admitted need to hold on to existing employees and obtain new ones, the Company was happy to oblige McLaughlin rather than lose her services. Not

so, however, with Bennett, who had stood up and directly challenged Company president Tarzian and Mrs. Tarzian.

Example No. 3 is Roanna Meadows. Foreman Howard Trinkle's testimony concerning Meadows revealed that she was discharged for continuing absenteeism and general refusals to work, in addition to not making her required rate (R. 295-296, 301-303, 309). In spite of Meadows' general reluctance to work at all, however, Trinkle admitted that he took her to see production manager Polley for a personal conference concerning her work, and that she was given several additional chances to improve her work (R. 301-303). No such opportunity was afforded Mrs. Bennett. No mention of Meadows is found in the Board's decision.

Example No. 4 is Karen White. After first flatly testifying that employees who did not make the required rate in the stick winding department were not retained, Trinkle admitted that, like Mrs. Bennett, Karen White "certainly did not" make her rate; unlike Mrs. Bennett, however, Karen White was not discharged (R. 311-312). No mention of White is found in the Board's decision.

Finally, Trinkle's system of record keeping of his employees reveals with ultimate clarity the disparity of treatment of Bennett. Thus, Trinkle admitted that he kept a daily record of the production rates of all new girls in his department. Yet, of the twelve girls who came to his department in Bennett's group, *only her production record was retained*. The record for everyone else in the group was destroyed—including both those who made the rate and those who did not (R. 264, 267, 274-275, 311-313). Although Trinkle stated that Bennett was not terminated for any reason other than her failure to make rate (R. 288), the Trial Examiner properly chose to reject his testimony and found precisely to the contrary. No mention of this subject is found in the Board's decision.

It is clear from the above that there is *no* support in the record for the Board's conclusion, contrary to that of the

Trial Examiner, that Bennett was lawfully discharged. "It is well settled that the mere existence of a valid ground for discharge is no defense to an unfair labor charge if such ground was a pretext and not a moving cause." *NLRB v. Lipman Brothers*, 355 F. 2d 15, 21 (1st Cir. 1966). See also *NLRB v. Yale Manufacturing Company*, 356 F. 2d 74 (1st Cir. 1966); *NLRB v. Solo Cup Co.*, 237 F. 2d 521 (8th Cir. 1956). And, in judging motivation, disparity of treatment is a key element. "Discrimination consists in treating like cases differently. If an employer fires a union sympathizer or organizer, a finding of discrimination rests on the assumption that in the absence of the union activities he would have treated the employee differently." *Frosty Morn Meats, Inc. v. NLRB*, 296 F. 2d 617, 621 (5th Cir. 1961). It is submitted that the record amply demonstrates the disparity of treatment accorded Bennett and the illegality of her discharge, and that there was no warrant for the Board's cavalier rejection of the Trial Examiner's specific findings to that effect.

4a. Harrassment of Thomas Beech

In its reversal of the Trial Examiner's finding that the Company violated Section 8(a)(1) of the Act by imposing a rule against relaxation by maintenance men on the night shift, directed at Beech, the Board acknowledges the basic facts found by the Trial Examiner, admits that the fact that the rule was suddenly imposed on April 15 (the day after Beech began wearing his union button) and then ceased abruptly when he quit one week later is suspicious, but finds insufficient evidence that the rule was adopted for discriminatory reasons. The evidence is, in fact, there. Although the Board claims that the rule was applied to all five maintenance men on the night shift and that the others were not shown to be known union adherents, the fact is that the rule was in reality directed solely at Beech and was applied to all the maintenance men for just as long as Beech was around. That its application ended on the day he left (see

page 12, *supra*) shows clearly that it was so directed. Anyway, said the Board, the rule was reasonable in view of poor work and complaints of laxity. However, since Polley himself admitted that he had had these problems for his entire twelve years at the plant, why the imposition of the rule only immediately after Beech wore the union button? And why, after the same twelve years, was there no longer a need for the rule when he left a week later? If this alone is not enough, the other events of April 14-15 concerning Beech abundantly fill whatever void may exist. This includes the attempted transfer of Beech to day work when the Company knew he could work only nights; his reassignment to an older and more difficult set of machines; and the specific placing of Beech under close and constant surveillance. To any reasonable mind, this combination of events, occurring immediately after Beech's open display of union sentiment, is far more than merely "suspicious."

4b. Restroom surveillance

Although a charge of spying on female employees in the restroom may at first blush sound farfetched, it becomes quite credible when it is realized that this unwholesome practice has a prior history at this Company. In the last case, the Board found that, as part of its campaign of surveillance of union activity, the Company stationed one Leola Hostetter in the ladies room and there had her spy on the union sentiments expressed by female employees. The contrary testimony of Company witnesses, Woods, its general counsel, and Haynes, its versatile nurse and "personnel counsellor," was discredited (157 NLRB at 1224-1225, 1230).¹⁰ It is also relevant to note that neither Woods nor

¹⁰ In the same case, the Board found that the Company also engaged a member of the union's organizing committee as a paid spy to report on the committee's actions. In so doing, she acted in concert with the president of the Company, as well as its general counsel. Ultimately, the paid informer, Hattie Logie, was herself discriminatorily refused reemployment when she refused

Haynes was called to testify in the present case, even though their activities were connected with two of the three discharges here in question.

In the instant case, the Trial Examiner found, largely based on credibility resolutions, that the Company had violated Section 8(a)(1) of the Act by again engaging in this same tactic. The Board, ignoring these credibility findings, reversed. Although the Board stated that there was no evidence that the surveillance of Robertson and Branam was connected with their union activities, the record reveals otherwise. First, there is the element of the timing: The union campaign had just been reactivated, and Branam and Robertson had become active members of the organizing committee. Second, foreman Payne admitted the surveillance of Branam and Robertson. Third, if, as the Board found, the Company was merely applying a legitimate rule against two or more employees going to the restroom at the same time, why were they followed even when going into the restroom individually, and why were they watched when performing their normal work operations? And, as for the undisputed evidence that Porter and Payne sat directly in front of the restroom and took notes whenever a girl entered and left the restroom, the Board passed this off as "sheerest speculation" that this could be surveillance of union activities. In view of the evidence recited above and this Company's continuing penchant for lavatory espionage, it

to return to the Company's employ on the condition of screening out pro-union applicants for employment. The contrary testimony of Company witnesses, including Woods and Haynes—both of whom were intimately involved in Logie's espionage—was discredited (157 NLRB at 1224, 1226-1232). Indeed, the Trial Examiner concluded with respect to this activity that,

"... the Respondent's position, testimony, and contentions here are absolutely ridiculous and untrue, and also shed considerable light on other aspects of this case and the general incredibility of the witnesses for the Company. . . ." 157 NLRB at 1230.

is hardly speculation at all, let alone the "sheerest" form of speculation.

We believe it is appropriate to note here that, throughout its decision, the Board freely makes conclusions or draws inferences which are contrary to specific factual findings and credibility resolutions of the Trial Examiner; yet it dismisses a virtually required inference of the Trial Examiner in this regard as the "sheerest speculation." In any event, even if the note taking is disregarded, the record abundantly supports the Trial Examiner's finding of unlawful surveillance of Robertson and Branam. It fails completely to support the Board's contrary ruling.

B. THE BOARD'S DECISION IS NOT SAVED BY THE RULE IN *UNIVERSAL CAMERA CORPORATION*

The Board will no doubt contend before this Court that, under *Universal Camera Corporation v. NLRB*, 340 U.S. 474, its findings should not be disturbed by this Court. There can be no argument, of course, that *Universal Camera* sets forth the general standard—the "substantial evidence" test—which is to govern judicial reviewability of administrative decisions. It is also clear from *Universal Camera* that the substantial evidence test may not be used by the Board as a crutch to escape close judicial scrutiny of its factual determinations, particularly where they are in direct conflict with those made by its Trial Examiner:

"The substantiality of evidence must take into account whatever in the record fairly detracts from its weight. This is clearly the significance of the requirement in both statutes that courts consider the whole record." 340 U.S. at 488

• • •

"Congress has merely made it clear that a reviewing court is not barred from setting aside a Board decision when it cannot conscientiously find that the evidence supporting that decision is substantial, when viewed in the light that the record in its entirety furnishes, in-

cluding the body of evidence opposed to the Board's view." *Ibid.*

• • •

"Reviewing courts must be influenced by a feeling that they are not to abdicate the conventional function. Congress has imposed on them responsibility for assuring that the Board keeps within reasonable grounds." 340 U.S. at 490.

That great weight is to be afforded the factual findings of the Trial Examiner, when he and the Board disagree, was made quite plain by Mr. Justice Frankfurter's Opinion:

"Surely an examiner's report is as much a part of the record as the complaint or the testimony. . . . It is therefore difficult to escape the conclusion that the plain language of the statutes directs a reviewing court to determine the substantiality of evidence on the record including the examiner's report." 340 U.S. at 493.

• • •

"Nothing in the statutes suggests that the Labor Board should not be influenced by the examiner's opportunity to observe the witnesses he hears and sees and the Board does not. Nothing suggests that reviewing courts should not give to the examiner's report such probative force as it intrinsically commands." 340 U.S. at 495.

• • •

"We do not require that the examiner's findings be given more weight than in reason and in the light of judicial experience they deserve. The 'substantial evidence' standard is not modified in any way when the Board and its examiner disagree. We intend only to recognize that evidence supporting a conclusion may be less substantial when an impartial, experienced examiner who has observed the witnesses and lived with the case has drawn conclusions different from the Board's than when he has reached the same conclusion. The findings of the examiner are to be considered along with the consistency and inherent probability of testimony. The significance of his report, of course, depends largely on the importance of credibility in the particular case. To give it the significance does not seem to us ma-

terially more difficult than to heed the other factors which in sum determine whether evidence is 'substantial.' " 340 U.S. at 496-497.

In its decision, the Supreme Court remanded the case to the Second Circuit for reconsideration of the entire record, including the findings of the Trial Examiner. 340 U.S. at 497. It is worthy of note that, on remand, the Second Circuit then reversed the Board's decision on the ground that the Board's overruling of its Trial Examiner was not supported by a "substantial preponderance of the testimony." *NLRB v. Universal Camera Corp.*, 190 F. 2d 429, 430-31 (2nd Cir. 1951).

More recently, the Supreme Court has reiterated that *Universal Camera* is still a controlling precedent. In *NLRB v. Walton Mfg. Co.*, 369 U.S. 404, 408, the Court stated:

"But the Examiner . . . sees the witnesses and hears them testify, while the Board and the reviewing court look only at cold records. As we said in the *Universal Camera* case:

"...The findings of the examiner are to be considered along with the consistency and inherent probability of testimony. The significance of his report, of course, depends largely on the importance of credibility in the particular case.' 340 U.S. at 496.

"For the demeanor of a witness

'...may satisfy the tribunal, not only that the witness' testimony is not true, but that the truth is the opposite of his story; for the denial of one, who has a motive to deny, may be uttered with such hesitation, discomfort, arrogance or defiance, as to give assurance that he is fabricating, and that, if he is, there is no alternative but to assume the truth of what he denies.' *Dyer v. MacDougall*, 201 F. 2d 265, 269."

The Circuit Courts have had countless opportunities to apply the substantial evidence rule. In one such case, Judge

Learned Hand reversed the Board's refusal to accept the credibility finding of a trial examiner and held that:

"[T]he examiner's finding should have prevailed under the doctrine of *Universal Camera Corp. v. National Labor Relations Board*, 340 U.S. 470. 'Good faith' is one form of credibility; it means that the motive that actuated the conduct in question was in fact what the actor ascribes to it: i.e. that what he gives as his motive was in truth his motive. Applied to the case at bar, it means that, when Flanagan said to Cohen, and repeated on the stand, that he did not know whether Cohen had secured a majority and that he wished to find out, he was telling the truth about what he believed. As was inevitable, the Supreme Court did not try to lay down in general terms how far the Board should accept the findings of its examiner. Plainly it did not mean them to have the finality of the findings of a master in chancery, or of a judge; but it necessarily left at large how much less reluctance the Board need feel in disregarding them than an appellate court must feel in doing the same to the findings of a district judge. The difficulty is inherent in any review of the findings of a judicial officer who chooses between discordant versions of witnesses whom he has seen, because the review does not bring up that part of the evidence that may have determined his choice. Over and over again we have refused to upset findings of an examiner that the Board has affirmed, not because we felt satisfied that we should have come out the same way, had we seen the witnesses; but because we felt bound to allow for the possible cogency of the evidence that words do not preserve. We do not see any rational escape from accepting a finding unless we can say that the corroboration of this lost evidence could not have been enough to satisfy any doubts raised by the words; and it must be owned that few findings will not survive such a test."¹¹

Nor is this Circuit unfamiliar with the problem. In *Burinskas v. NLRB*, ____ App. D. C. ____, No. 18054 (1964), 55 LRRM 2300, as here, the charging party sought review of the Board's dismissal of the complaint. And there, too, the

¹¹ *NLRB v. Thompson & Co.*, 208 F. 2d 743, 745-46 (2nd Cir.).

Trial Examiner had found the commission of unfair labor practices based in large part on his observation of the witnesses. This Court remanded the case to the Board because it had

“...difficulty in apprehending the basis for the Board's Order by reason of ambiguities in its Decision deriving from the Board's treatment of the Examiner's findings with respect to the credibility of certain witnesses for the employer and uncertainty as to the extent to which the Board rejected the Examiner's inferences drawn from the evidence found credible.”¹²

On remand, the Board reversed itself, *sub nom. Ferrell-Hicks Chevrolet, Inc.*, 149 NLRB 1512, 1513, holding that:

“As the Board Panel which originally considered this matter cannot be reconstituted, the questions presented by the Court's remand have been considered by the full Board. A majority of the Board is now of the opinion that in accepting the Trial Examiner's resolutions of credibility based on the demeanor of the witnesses it should also have accepted the inferences which the Trial Examiner drew from the facts as he found them. The Trial Examiner discredited the testimony of Respondent's witnesses, Haggerty and Frachalla, as to their asserted reasons for discharging Burinskas. No credible reason for his discharge having been established, it follows that the inferences drawn by the Trial Examiner from the credited testimony of Burinskas are entitled to great weight. The contrary inferences drawn by the majority members of the Board Panel were based in part on an acceptance of discredited testimony, and for that reason are less supportable than the inferences of the Trial Examiner.”

Here, too, there is difficulty in fully understanding the basis of the Board's decision because of ambiguities which

¹² Another case in which this Court remanded to the Board a decision in which it had reversed its Trial Examiner on factual findings involving creditability determinations and inferences to be drawn therefrom is *Retail Store Employees Union v. NLRB*, 123 App. D. C. 360, 360 F. 2d 494 (1965).

result from its treatment of the Trial Examiner's specific factual findings based on credibility resolutions. This case, however, presents an even easier case for reversal, for in part it is unambiguously clear the Board has departed, without record support, from the Trial Examiner's factual findings and inferences drawn therefrom.

Other circuits, too, have recently had occasion to apply the substantial evidence test where the Board had reversed its Trial Examiner on factual matters. In *Boaz Spinning Company v. NLRB*, ____ F.2d ____, 68 LRRM 2393 (5th Cir. May 31, 1968), the Court denied enforcement to a Board order reversing a decision of a Trial Examiner recommending dismissal of the complaint. The Court noted that:

"Thus, the question in this case 'is not the usual one of whether the Board's findings on disputed facts are supported by substantial evidence in the record as a whole, e.g., *NLRB v. Brown*, 380 U.S. 278, 291, but whether the inferences drawn by the Board [contrary to those drawn by the Examiner] from the uncontroverted facts in this case are reasonable ones.' (Citation omitted.)" 68 LRRM at 2394-95

The Court continued as follows:

"While the inference to be drawn by the Board is not one based solely upon the demeanor of witnesses at the hearing before the Examiner, cf. *N.L.R.B. v. Donnelly Garment Co.*, 1947, 330 U.S. 219, 229-31, and in this instance is not, strictly speaking, a credibility choice, we think the Examiner had a superior opportunity over the Board for evaluating whether Alexander's 'Castro' remark was spontaneous and made under emotional stress in the course of hard union campaigning, or was made as a calculated flagrant act of insubordination. The recognition given to the credibility choice rule 'that evidence supporting a conclusion may be less substantial when an impartial, experienced examiner who has observed the witnesses and lived with the case has drawn conclusions different from the Board's than when he has reached the same conclusion,' *Universal Camera Corp. v. N.L.R.B.*, 1950,

340 U.S. 474, 496, is equally applicable to and compelling in the case sub judice. In an analogous situation we found the fact that the trial examiner had the opportunity to observe a witness on the stand to be of great significance in appraising whether a threat made by him to his employer was a spontaneous utterance under extreme provocation or was aggravated and gross misconduct rendering him unfit for further employment [Citation omitted.]” 68 LRRM at 2396.

In another such case, the Seventh Circuit held that the Board’s findings were not supported by substantial evidence. In discussing its standard of review in the case, where the Board had reversed the Trial Examiner, the court noted that,

“The task of a reviewing court usually is made difficult when the Labor Board seems to entirely disregard the findings and conclusions of a Trial Examiner.”¹³

In *Greco v. NLRB*, *supra*, the Third Circuit rejected certain of the Board’s conclusions which had differed from those reached by the Trial Examiner. It stated, at 331 F. 2d 166:

“We agree with the Board that its difference with the trial examiner concerns the ultimate conclusion to be inferred from the evidence. We further agree that this is within the province of the Board, provided that the inference it seeks to draw is such as ‘*reasonably* may be based upon the facts proven.’ (Emphasis is the Court’s.) *Republic Aviation Corp. v. National Labor Relations Board*, 324 U.S. 793, 800 (1945). . . . The conclusion of the Board thus must be a reasonable and logical deduction from the evidence.”

The court there, applying this test, rejected the Board’s conclusions which differed from those reached by the Trial Examiner.

Reviewing courts have also been careful to check the Board in its unwarranted use of inferences as a means of

¹³ *Flack v. NLRB*, 327 F. 2d 396, 399 (7th Cir. 1963).

overturning the factual findings of a Trial Examiner. In *NLRB v. Arkansas Grain Corp.*, 392 F. 2d 161 (8th Cir. 1968), the court stated at p. 166, as follows:

"It is, of course, within the purview of the Board to draw reasonable inferences from the evidence, but substantial evidentiary bases must exist to support such inferences; they cannot be based purely on speculation. (Citation omitted.)

"We are convinced from a careful analysis of the entire record that the Trial Examiner based his decision on sound reasons and no reasonable basis exists to hold otherwise. To adopt the Board's view would require acceptance of inferences unsupported by substantial evidence on the record as a whole."

In sum, under *Universal Camera* and its progeny, this Court may—indeed, should—scrutinize most carefully the entire record in this case, including the decision of the Trial Examiner, in order to determine whether the Board's decision is supported by substantial evidence. Particularly is this so in the context of a case such as this which turns almost exclusively on factual findings, including resolutions of the credibility of witnesses,¹⁴ and the inferences to be drawn therefrom.

¹⁴ The Board may argue that the Trial Examiner did not make all of the credibility determinations which are mentioned in this brief. Any such contention would, however, rest upon the literalistic notion that, unless the Trial Examiner actually uses the magic phrase, "This is a credibility determination," he has not determined an issue of credibility. The short answer to any such contention is that no precise verbal formula or label is required when, in fact, a trier of fact accepts the version of one witness and refuses to accept the conflicting version offered by another witness or set of witnesses. As we have demonstrated above, the record, including the Trial Examiner's decision, contains a number of examples of such credibility resolutions, even though only a few of them are labeled *in haec verba*.

CONCLUSION

For all of the foregoing reasons, the Board's decision and order should be set aside and remanded to the Board with instructions to issue a supplemental decision and order which is consistent with the opinion of this Court and which should include, in the light of this Court's remand order, reconsideration of that portion of its original decision and order which certified the results of the May 12, 1966, election.

Respectfully submitted,

SHERMAN AND DUNN

LAURENCE J. COHEN

1200 - 15th Street, N.W.
Washington, D.C. 20005

Counsel for Petitioner

August 1968

APPENDIX**Statutes Involved**

National Labor Relations Act, as amended, 29 U.S.C. § 150, *et. seq.*, 61 Stat. 136:

Section 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).

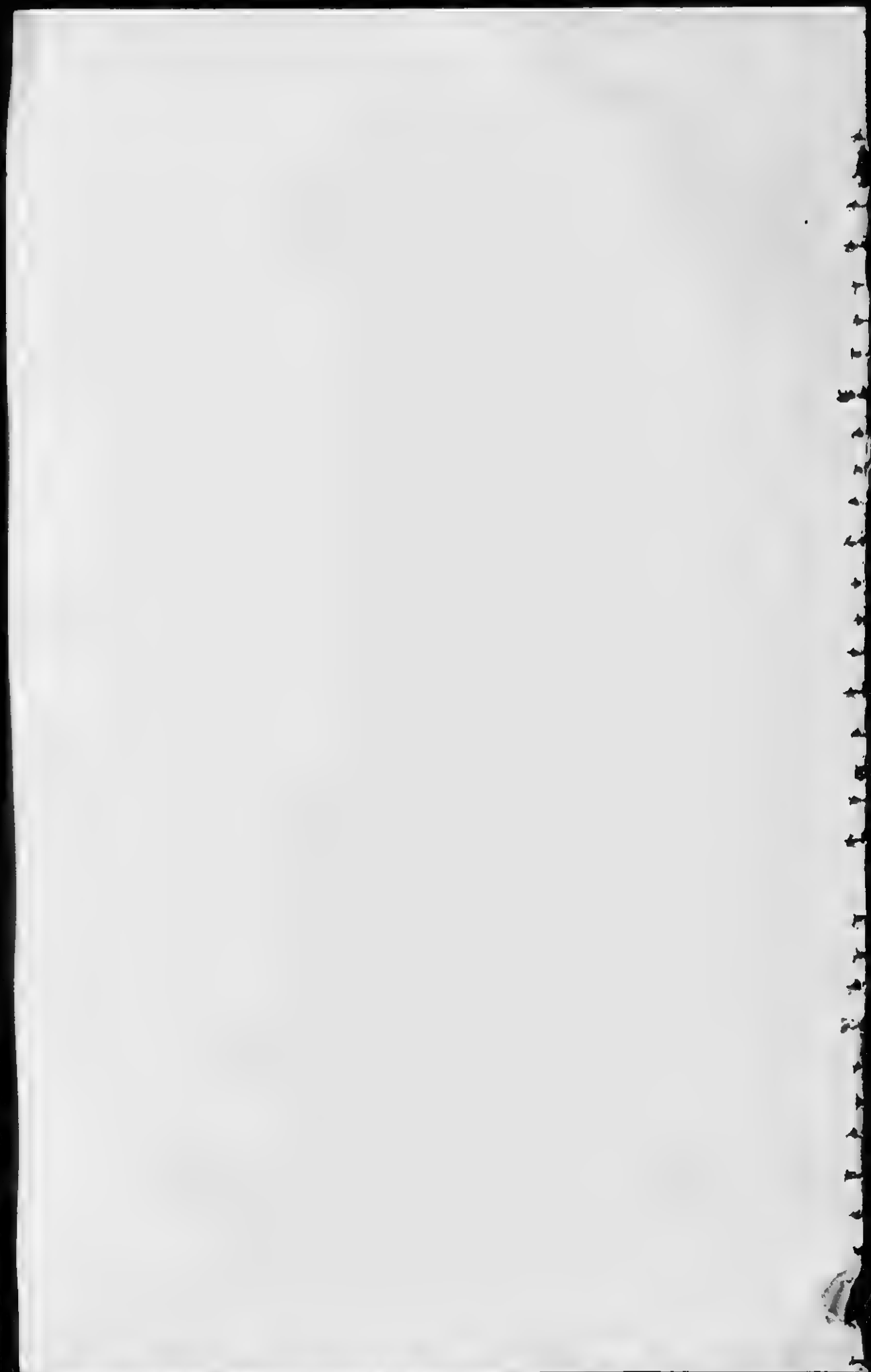
• • •

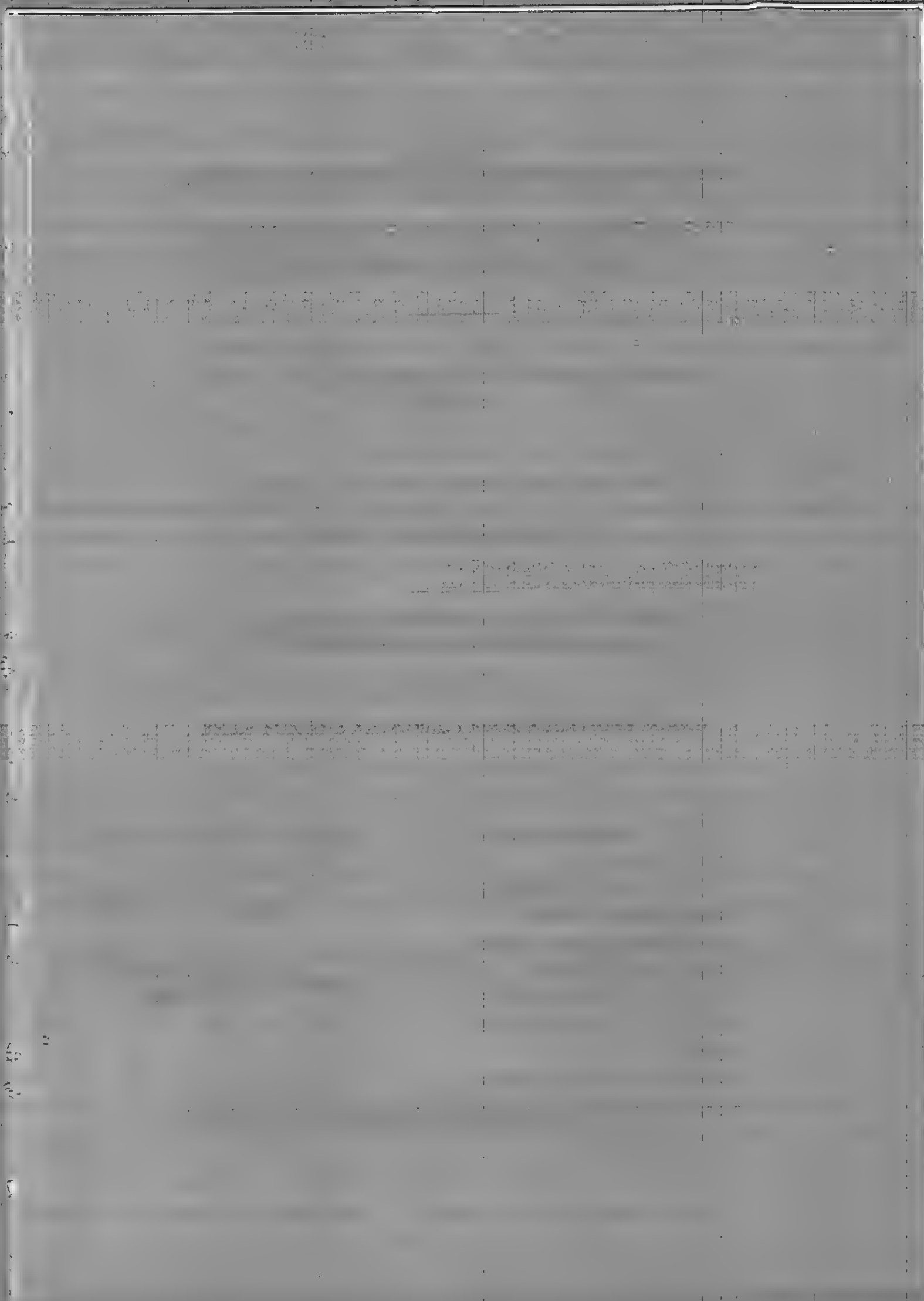
Section 8(a). It shall be an unfair labor practice for an employer—

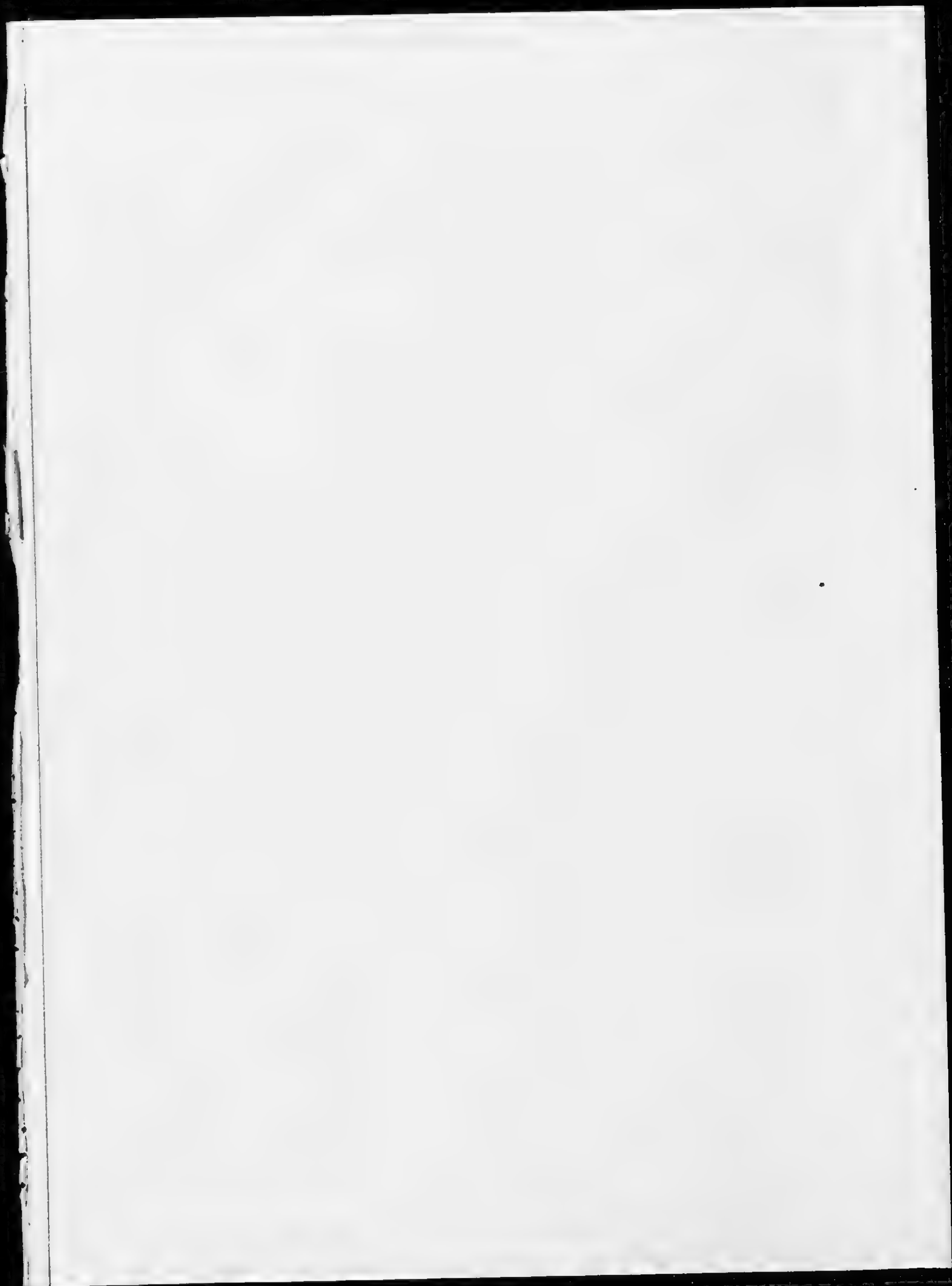
(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

• • •

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization:...







(i)

TABLE OF CONTENTS

	<u>Page</u>
STATEMENT OF ISSUES	1
COUNTERSTATEMENT OF THE CASE	2
I. The Board's findings of fact	2
A. Background	2
B. The alleged unfair labor practices	3
1. Change in work rules for maintenance employees	3
2. Surveillance of employees Branum and Robertson	3
3. Termination of employee Agnes Felty	4
4. Termination of Reva Robertson	5
5. The termination of Bobby Bennett	6
II. The Board's conclusions and order	6
ARGUMENT	7
I. The Board properly concluded that the preponderance of the record evidence failed to show that the Company violated Section 8(a)(1) and (3) of the Act	7
A. Introduction	7
B. The changes in work rules and the enforcement of these rules were not unlawful	9
C. The discharge did not violate Section 8(a)(3) of the Act	11
CONCLUSION	15

AUTHORITIES CITED

CASES:

Amalgamated Clothing Workers v. N.L.R.B., 118 U.S.App.D.C. 191, 334 F.2d 581 (1964)	7
Amalgamated Clothing Workers v. N.L.R.B., 124 U.S.App.D.C. 365, 365 F.2d 898 (1966)	7, 11
Burinskas v. N.L.R.B., 123 U.S.App.D.C. 143, 357 F.2d 822 (1964)	8
F.C.C. v. Allentown Broadcasting Corp., 349 U.S. 358 (1955)	8
International Union of Electrical, R&M Workers v. N.L.R.B., 127 U.S.App. D.C. 303, n.2, 383 F.2d 230 (1967), cert. den., 390 U.S. 904	8
International Woodworkers v. N.L.R.B., 104 U.S.App.D.C. 344, 262 F.2d 233 (1958)	15

(ii)

CASES—Continued:

	<u>Page</u>
International Woodworkers v. N.L.R.B., 105 U.S.App.D.C. 37, 263 F.2d 483 (1959)	7
N.L.R.B. v. Electro Plastic Fabrics, Inc., 381 F.2d 374 (C.A. 4, 1967)	11
N.L.R.B. v. Fitzgerald Mills Corp., 313 F.2d 260 (C.A. 2, 1963), cert. den., 375 U.S. 834	8
Oil, Chemical and Atomic Wrkrs. v. N.L.R.B., 124 U.S.App.D.C. 113, 362 F.2d 943 (1966)	8
Universal Camera Corp. v. N.L.R.B., 340 U.S. 474 (1951)	8, 15
Warehousemen & Mail Order Employees v. N.L.R.B., 112 U.S.App.D.C. 280, 302 F.2d 865 (1962)	8
Wheeler v. N.L.R.B., 114 U.S.App.D.C. 255, 314 F.2d 260 (1963)	8
Witbeck's IGA Supermarket, 155 NLRB 40 (1965), enf'd, 382 F.2d 574 (C.A. 6, 1967)	11

STATUTE:

National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C., Sec. 151, <i>et seq.</i>)	2
Section 8(a)(1)	1, 6
Section 8(a)(3)	1, 6
Section 10(c)	2
Section 10(f)	2

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,932

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD, Respondent

SARKES TARZIAN, INC., Intervenor

ON PETITION FOR REVIEW OF A DECISION AND ORDER
OF THE NATIONAL LABOR RELATIONS BOARD

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD

STATEMENT OF ISSUES

1. Whether the Board erred in refusing to find that the Company violated Section 8(a)(1) of the Act by promulgating its rule against "relaxation" for night shift maintenance men and by engaging in surveillance of certain of its employees.

2. Whether the Board erred in refusing to find that the Company violated Section 8(a)(3) and (1) of the Act by discriminatorily discharging and refusing to reinstate three employees.

COUNTERSTATEMENT OF THE CASE

This case is before the Court on the petition of the International Brotherhood of Electrical Workers (hereinafter referred to as the "Union"), to review an order of the National Labor Relations Board dismissing a complaint against Sarkes Tarzian, Inc. pursuant to Section 10(c) of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C., Sec. 151, *et seq.*). The Board's Decision and Order were issued on February 1, 1968, and are reported at 169 NLRB No. 84. This Court has jurisdiction under Section 10(f) of the Act.

THE BOARD'S FINDINGS OF FACT

A. *Background*

The Company is engaged in the manufacture of electrical equipment at three plants in Monroe County, Indiana. The Union began a drive to organize the production and maintenance employees at the three plants in April 1962. In January 1963, there was an election. The Union lost and filed objections (B.D. 1).¹ In March 1966, the Board set aside the election and directed a second election, which was conducted on May 12.² Again the Union lost and again it filed objections to the election. It also filed unfair labor practice charges. The election objections and the unfair labor practice allegations were consolidated for the purpose of a hearing in the case at bar.

¹"B.D.," "T.X." and "Tr." references are to the Board's Decision, the Trial Examiner's Decision, and the original transcript, respectively. Where a semicolon appears in a list of references, those numbers preceding it are to the Board's findings and those following it are to supporting evidence.

²157 NLRB 1193.

B. The alleged unfair labor practices

1. Change in work rules for maintenance employees

On April 15, 1966, Night Foreman William Payne called a meeting of the five night maintenance men, which included Tom Beech, a daytime law student who had worn a union button to work the night before (B.D. 2; Tr. 118-119, 124, 130-132). Payne advised the men that henceforth they would be rotated to different machines and they were no longer to sit down and talk to the girls; rather they were "to keep busy at all times" by finding "work somewhere" (B.D. 2; Tr. 124, 130-132).³

2. Surveillance of employees Branum and Robertson

Sometime in 1964, Foreman Payne had promulgated a rule that two persons from the same work group were not to go to the restroom at the same time. The rule had been applied to the coilwinders under Payne but not to the quality audit inspectors who worked in the department (B.D. 3; Tr. 428-429). In mid-April, when two coilwinders, who were members of the Union's organizing committee, were reminded of the rule, they complained that it was not applied to inspectors Anna Branum and Reva Robertson, two other members of that committee (B.D. 3; Tr. 428-429). Payne told Assistant Foreman Porter to tell Branum and Robertson that they were subject to the rule and that day Payne and Porter sat in front of the restroom with a pad of paper on which they wrote "something" each time a girl went into the restroom (B.D. 4; Tr. 428-429). Robertson

³As explained by Beech (Tr. 128-130), the production employees were organized in groups of 13 girls and one maintenance man. Prior to March, the group changed every week to a different set of machines. In late March the girls were allowed to vote whether to remain with one set of machines or continue the rotation, and they voted to remain. Thus, the change announced April 15, effective the following Monday, was to return the maintenance men to rotation, since the sets of machines varied in age and hence in needed maintenance.

and Branum also noticed that each time they went to the restroom they were followed in by Porter or by a group leader—either Sharon George or Emily White (B.D. 4-5; Tr. 95, 205-206). Neither girl was reprimanded for her union activities, but on April 18, Branum complained to General Foreman Parish about “being followed and watched,” because she attended union meetings. Parish replied that what she did “after 12:30 [was] strictly [her] own business” (B.D. 5; Tr. 210-211).

3. Termination of employee Agnes Felty

On April 18, 1966, the Company shut down a production line (B.D. 6; Tr. 334). Several of the affected employees—including Agnes Felty, a member of the Union’s organizing committee—were reassigned, several quit, and the remainder were retained in the status of “extras” (B.D. 6; Tr. 374-375, 394-397). Felty was assigned to crimp work, but no soldering, although soldering work was done nearby (*ibid.*). She had previously been relieved of soldering work because of a sensitivity to fumes, but her earlier reassignment had been to a station within 5 or 6 feet of solder work and she had no problems at that time (B.D. 6; Tr. 47-48, 332-333).

The morning after her assignment to the new job, she reported directly to the plant nurse, complaining of solder fumes, and was sent to Production Manager Polley (B.D. 6; Tr. 398-399). Polley told her that she had been hired as a crimp and solder worker, that the only other available openings were in the machine shop and that these jobs were being saved for older girls. He asked her to at least try her new job, for otherwise he would have to let her go (B.D. 6; Tr. 56-59, 337). Felty went back to her station, and a few minutes later her foreman, acting on Polley’s instructions, provided her with one of the adjustable fans used by solderers to blow away fumes (B.D. 6; Tr. 338-339, 408-413, 415-418). A short while later,

she told her assistant foreman that she was going home at the 9:00 o'clock break because she was not feeling well (B.D. 6; Tr. 60-62, 78-79). About 8:20, the foreman returned with a relief girl, and said that if Felty was ill she could go home immediately. Felty left the line, checked out through the dispensary, and went home (B.D. 7; Tr. 78-79). The following week she returned with a doctor's statement to the effect that she "*must not* come in contact" with solder fumes, and Polley told her that he had no work for her (B.D. 7; Tr. 62-64, 333, 339-341, 400).

4. Termination of Reva Robertson

On May 19, a week after the election, the Company reduced from 4 to 3 the number of quality audit inspectors. Twila Robbins, who had the least seniority, was given a choice of becoming a coilwinder or being laid off, and she chose to transfer (B.D. 10; Tr. 346-347, 382-383). Reva Robertson, who had the next lowest seniority, was then advised that she would take Robbins' place in the machine shop, leaving two inspectors in the coilwinder department. Robertson complained that she could not work there—reminding Foreman Parish that she had been relieved of that job the preceding February after producing a doctor's certificate (B.D. 10; 98-100). Parish then offered her a job as a coilwinder, but she declined, stating that 10 years before she had been bothered by solder fumes (B.D. 10; Tr. 105, 114-115). At this point, inspector Anna Branum offered to take a layoff and inspector Rita Clemmons offered to take the machine shop assignment, so that Robertson could remain in the coilwinder department, but Parish refused, indicating that the Company did not permit employees to choose where they would work, and Robertson thereupon quit (B.D. 10; Tr. 105). Clemmons, whose seniority entitled her to bump Robertson, remained in the coilwinding department (B.D. 10; Tr. 106-107,

211-213, 550); the record does not indicate who was assigned as an inspector in the machine shop.

5. The termination of Bobby Bennett

On May 24, the Company closed down another production line and transferred 12 employees, including Bobby Bennett, a member of the Union's organizing committee, to the stickwinding department for training (B.D. 11; Tr. 257-262). The employees were told that only those who were able to make a daily rate of 29 trays would be retained (B.D. 11; Tr. 257-262). On June 15, a month after the election, the Company terminated employees who had failed to make the rate after the trial period had been extended by one week (B.D. 11-12; Tr. 160-167, 173, 276, 279-281, 286, 292, 294-306). This included Bennett, whose maximum production—which she achieved only once—was 16 trays (*ibid.*).

II. THE BOARD'S CONCLUSIONS AND ORDER

The Board, contrary to the Trial Examiner, found that the above conduct by the Company did not violate Section 8(a)(1) of the Act, concluding that the General Counsel failed to prove by a preponderance of the evidence that either the new work rule applied to night-shift maintenance men or the surveillance of employees in the quality-audit department had anything to do with union activities (B.D. 3, 5).

Further, contrary to the Trial Examiner, the Board found that the termination of employees Felty, Robertson, and Bennett was not discriminatorily motivated, in violation of Section 8(a)(3) and (1) of the Act. The Board concluded that the Company's actions in attempting to accommodate employees Felty and Robertson by transfer were inconsistent with the charge that they were constructively discharged (B.D. 5-11). Likewise,

the Board determined that the discharge of employee Bennett was for failing to make her production quota, and the Company's alleged discriminatory motive had not been proved by a preponderance of the evidence in view of the Company's similar treatment of other employees (B.D. 11-13). Accordingly, the Board dismissed the complaint in its entirety (B.D. 14).

ARGUMENT

I. THE BOARD PROPERLY CONCLUDED THAT THE PREPONDERANCE OF THE RECORD EVIDENCE FAILED TO SHOW THAT THE COMPANY VIOLATED SECTION 8(a)(1) AND (3) OF THE ACT

A. Introduction

Where the Board finds that an employer's conduct did not interfere with protected rights, the Board's determination will be upheld unless it has "no rational basis" (*International Woodworkers v. N.L.R.B.*, 105 U.S. App. D.C. 37, 39, 263 F.2d 483, 485 (1959); *Amalgamated Clothing Workers v. N.L.R.B.*, 124 U.S. App. D.C. 365, 378, 365 F.2d 898, 911 (1966), or unless "the evidence required the Board to uphold the claim" that the statute was violated (*Amalgamated Clothing Workers v. N.L.R.B.*, 118 U.S. App. D.C. 191, 334 F.2d 581 (1964)) because the only inference reasonably to be drawn from the record is that respondent violated the Act.

As the Counterstatement (*supra*, pp. 3-6) makes clear, all the conduct alleged as unlawful is equivocal, for everything that happened to union adherents is attributable to lawful motives and happened to other employees—that is, none of the conduct is discriminatory on its face. Accordingly, any finding of interference or discrimination depends on additional factual inferences from the evidence, and in large part, on the

weight to be given Board findings of prior unlawful conduct by the Company. Obviously, these are "matters where the presumptively broader gauge and experience of the members of the Board have a meaningful role" and it is "they who have been given statutory responsibility." *Oil, Chemical and Atomic Workers v. N.L.R.B.*, 124 U.S. App. D.C. 113, 115-116, 362 F.2d 943, 946 (1966). Accord: *Universal Camera Corp. v. N.L.R.B.*, 340 U.S. 474, 493-494 (1951); *F.C.C. v. Allentown Broadcasting Corp.*, 349 U.S. 358, 363-364 (1955); *Wheeler v. N.L.R.B.*, 114 U.S. App. D.C. 255, 258, 314 F.2d 260, 263 (1963); *Warehousemen & Mail Order Employees v. N.L.R.B.*, 112 U.S. App. D.C. 280, 284, 302 F.2d 865, 869 (1962); *N.L.R.B. v. Fitzgerald Mills Corp.*, 313 F.2d 260, 268 (C.A. 2, 1963), cert. denied, 375 U.S. 834; *International Union of Electrical, R&M Workers v. N.L.R.B.*, 127 U.S. App. D.C. 303, 305 n. 2, 383 F.2d 230, 232 n. 2 (1967), cert. denied, 390 U.S. 904.

Thus, the issue, as the Union apparently recognizes (Br. 39), is "whether the inferences drawn by the Board [contrary to those drawn by the Examiner] from the uncontroverted facts in this case are reasonable ones." Despite this apparent recognition, however, the Union asserts (Br. 34, 39) that the Board's conclusions "are contrary to specific . . . credibility resolutions of the Trial Examiner" or that the Board's conclusions at least raise "ambiguities" with respect to the Board's treatment of those findings, asserting correctly (Br. 42, n. 14) that a finding may involve credibility even though not "labeled in *haec verba*."⁴ The only instance of such a "credibility" reversal tendered by the Union (Br. 29-30), however,

⁴Of course, the Board is not precluded from reversing credibility determinations where they are against the weight of the evidence, and what the Union seeks (Br. 38) by this argument is a remand to require the Board to justify its reversal of credibility determinations. See *Burinskas v. N.L.R.B.*, 123 U.S. App. D.C. 143, 357 F.2d 822 (1964).

is the assertion that "[Foreman] Trinkle stated that Bennett was not terminated for any reason other than her failure to make the rate (R. 288) [but] the Trial Examiner properly chose to reject his testimony and found precisely to the contrary." The Trial Examiner, however, would not allow Trinkle to testify as to whether "Bobby Bennett was terminated because of any union activity" (Tr. 287) because he regarded this as the "conclusion for [him] to decide" (Tr. 287-288) and his actual conclusion in this respect (T.X. 12) was based, not on Trinkle's credibility, but on the Examiner's evaluation of the relative consistency between the treatment accorded Bennett and other employees, discussed *infra*, p. 14. Accordingly, the Board left undisturbed all of the Trial Examiner's findings which could fairly be described as involving credibility determinations, and the only issue is whether the uncontroverted facts "required" a different conclusion. As we show below, they did not.

B. *The changes in work rules and the enforcement
of these rules were not unlawful*

In mid-April the Company extended to inspectors in the coilwinding department a rule which had long been applied to coilwinders—that is, two girls in the same section were not to go to the restroom at the same time. The occasion for this extension was a complaint by two coilwinders, both members of the Union's organizing committee, that the rule should not be enforced against them when it was not enforced against inspectors. Notification of the inspectors was followed by surveillance of the restroom for one day, during which a supervisor wrote "something" on a pad. In addition, the two inspectors—but so far as appears, not the coilwinder members of the Union's organizing committee—noticed that every time they went to the restroom, one of the supervisors also went to the restroom, but the supervisors said nothing to them.

About the same time, maintenance men were told that they would rotate each week among the sets of machines and that they should keep busy and not sit talking to the girls when the machines to which they were specifically assigned were running properly. The change to rotation was a return to prior practice, since until the preceding March maintenance men had rotated with the groups of operators, and rotation enabled the maintenance men to share the newer machines, which took less maintenance. The occasion for the announcement was the receipt of complaints from supervisors and operators that their machines were not being fixed fast enough (Tr. 353-354, 424, 426-427, 470, 479) and each group leader was advised to observe the maintenance man who was assigned to her machines and report him if he was talking (Tr. 424-425).

The Union urges (Br. 32) that despite its neutral character the surveillance of the inspectors should be regarded as unlawful, because in the earlier case surveillance of union activities in the restrooms was found unlawful. As noted above, however, the Board is not required to make such an inference. The Union urges further (Br. 31-32) that the conduct with respect to maintenance men was unlawful because it was really part of a plan to harass Thomas Beech, who had worn a union button to work on April 14. The earlier "harassment" was offering Beech a transfer to the day shift, which he could not take because he was a full-time day law student. Of course, day-shift work is generally preferred, and Production Manager Polley, who had ordered the transfer, immediately accepted Beech's explanation that he could only work nights.⁵ The reason offered

⁵The Union asserts (Br. 31) that "the Company knew" that Beech could only work nights. Direct knowledge was attributed only to the personnel section, however, and the inference that this information was conveyed to Polley is certainly not required, particularly in light of his conduct.

for transferring someone from the night shift—that a day maintenance man had quit (Tr. 124-125)—is in no way impugned. The Union also suggests (Br. 15) that the “rule” was imposed “suddenly” after Beech’s appearance with a union button and “disappeared” after Beech quit, for personal reasons, a week later. It is undisputed, however, that *all* maintenance men were told to keep busy, *all* group leaders were instructed to watch the maintenance men, *no* maintenance man was disciplined for talking, and the rotation of maintenance men continued. Evidence that after Beech left, *employees* saw maintenance men visiting with operators, we submit, does not establish a discriminatory application of a rule which is unquestionably valid on its face. See *Amalgamated Clothing Workers v. N.L.R.B.*, *supra*, 124 U.S. App. D.C. at 378, 365 F.2d at 911; *N.L.R.B. v. Electro Plastic Fabrics, Inc.*, 381 F.2d 374, 376 (C.A. 4, 1967); Cf. *Witbeck’s IGA Supermarket*, 155 NLRB 40, 42 (1965), *enf’d*, 382 F.2d 574, 576 (C.A. 6, 1967).

C. *The discharges did not violate Section 8(a)(3) of the Act*

In considering the terminations of Felty, Robertson, and Bennett, the dominant fact is that in each case the termination resulted from a change in operating procedures which was unrelated to union activity. Nor is the timing of these terminations particularly significant. As reflected in the tallies of the ballots,⁶ the employee complement shrank from more than 1800 at the time of the first election to less than 1400 at the time of the second election, indicating over 400 separations in addition to turnover, and only one of the three alleged discriminatees was separated during the most critical period—that is, after the second election was ordered and

⁶GCX 1(o), 157 NLRB 1193, 1202, n. 1.

before it was held. Although the Examiner accepted the Company's assertions that the initial changes were economically motivated, the Union suggests that with respect to Felty and Robertson, at least, the initial action was a sham. Thus, the Union asserts (Br. 20) that Felty's line "was reestablished only two weeks later" but the cited testimony (Tr. 367-368) states that the line "hasn't operated as a full line since we broke it up the latter part of April" and that only the "final assembly" portion was reestablished at the later date. Similarly, the Union's assertion (Br. 26) that "a new employee . . . has been performing the same job that Robertson performed prior to her discharge" is based on testimony (Tr. 211-213) that at some unspecified time during the ensuing four months, a girl who was a coilwinder at the time of Robertson's termination had done inspection, but as noted above, p. 5, Robertson's work was initially assigned to Clemmons, the employee who bumped her.

Second, each of the discriminatees was assigned a new job when initially displaced by the operational change. Felty, who was placed in the "crimp and solder" pattern when hired, was assigned a job in accordance with her pattern; Robertson, the job of the employee she bumped and in the alternative the job offered that employee; and Bennett, the job given to other employees on the line which closed down. The Union's assertion (Br. 20) that Felty was assigned to "precisely" the job she had proved unable to do in November 1965 which Polley "knew" she could not perform is in error, for the work was not soldering, which was the job from which she had been relieved. Although it was *near* soldering, Felty had worked *near* soldering previously without difficulty. Similarly, the assertion that the Company "knew" that Robertson could not do soldering work is based on Robertson's testimony that she had been relieved of

such work "10 or 12" years before (Tr. 105, 114-115). As the Board noted, however, the Company had a large number of employees, and Robertson's earlier trouble occurred a long time before. Moreover, only a short time before, Robertson had told her foreman, in response to grumbling by coilwinders, that she would "trade" with the coilwinders to let them see if inspecting was "as easy as they thought it was" (Tr. 102, 112). Although the Union contends (Br. 10) that this was sarcasm, her statement hardly comports with the assertion that Robertson's medical history was fresh in everyone's mind.

The discrimination here, therefore, must lie, not in the initial displacement of these employees, nor in their inability to retain the alternative employment, but in the Company's failure to come forward with a second or third opportunity. Thus, the Union contends that since Felty could not do any job in her pattern, she should have been given a job in some other pattern. As the Board noted (B.D. 8), however, the "uncontradicted evidence is that Felty had always had a solder and crimp pattern" and that the machine operator's pattern was reserved for employees with six years' seniority, which Felty unquestionably did not have.⁷ Similarly, the Union contends that Robertson should have been

⁷The Union contends (Br. 20-22) that the Company had no "patterns." The record shows, however, that under Company policy, the machine operator's pattern is reserved for people with high seniority who have difficulty performing other jobs in the plant. Employees with less than six years' seniority are never considered for a machine operator's pattern (B.D. 8; 325-328). In April, Felty had four years' seniority (B.D. 8; 328). In the past, as the Union indicates, employees with crimp and solder patterns, including Felty, have been given machine operator work, but the evidence indicates this is true only when employees having the machine operator pattern are not available (B.D. 8; 330, 373). On April 19, the only machine operator position available was as a two-week replacement for a machine operator absent with a back injury (B.D. 8; 401-402). That temporary job was filled, in accordance with the Company policy, by Margaret Hopkins, a woman who had been doing the same work on the recently dissolved line.

given an opportunity to bump an inspector on the day shift and chides General Foreman Parish because (Br. 26) "he did not even bother checking to see" if Robertson could have bumped one of them. Since Robertson did not claim sufficient seniority to bump anyone on the day shift and no such possibility was shown to have existed, Parish's failure to make such an investigation on Robertson's behalf is hardly discriminatory. Finally, the Union contends that Bennett should have been given some other job or more assistance in qualifying as a stickwinder, but the assertion that such consideration was extended to other employees who were indistinguishable from Bennett is groundless.⁸ In sum, the record establishes that these three employees were separated when other employees were separated. Two of them were disqualified for work in a major job category for women employees and the third was a new employee who had failed at her most recent job. The Union's assertion that despite these handicaps, the Company would have gone an extra mile with them if they had not favored the Union is based, not on this record, but on speculation.

In any event, we submit that the Union's argument establishes at most that a finding of discrimination as to these employees, as well as a

⁸Thus, Sandra Laven, who was also unacceptable as a stickwinder, was also terminated. Unlike Bennett, however, she actively sought another job with the Company, was told that "something might come up later," and was later recalled to work at a different job at a different plant (Tr. 149-150). Karen White did not make her rate and was not discharged, but Trinkle admittedly kept those who came close to making their rate (Tr. 312, 314). White, who testified for the General Counsel (Tr. 230-235), did not contradict Trinkle's testimony that Bennett's production record of 16 trays or less was by far the "worst" (Tr. 313). Roanna Meadows *could* do the work, but was fired for absenteeism (Tr. 298, 303). Although she was given more counseling than Bennett, as the Union suggests (Br. 29), counseling was unlikely to increase Bennett's dexterity, while it might have improved Meadows' attitude. Betty McLaughlin qualified as a stickwinder, but received a transfer when she threatened to quit (Tr. 319-320). Contrary to the Union's assertion, however, Bennett's short, miscellaneous experience is not the absolute equivalent of McLaughlin's established ability to do more difficult work.

finding of interference with respect to the work rules, might reasonably be made on this record. It is well settled, however, that a court should not "displace the Board's choice between two fairly conflicting views, even though the court would justifiably have made a different choice had the matter been before it *de novo*." *Universal Camera Corp. v. N.L.R.B.*, *supra*, 340 U.S. at 488; *International Woodworkers v. N.L.R.B.*, 104 U.S. App. D.C. 344, 345, 262 F.2d 233, 234 (1958).

CONCLUSION

For the above stated reasons the petition for review should be denied.

Respectfully submitted,

ARNOLD ORDMAN,

General Counsel,

DOMINICK L. MANOLI,

Associate General Counsel,

MARCEL MALLET-PREVOST,

Assistant General Counsel,

ELLIOTT MOORE,

IAN D. LANOFF,

Attorneys,

National Labor Relations Board.

September 1968.

175-20012
3-65
(4)

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS,
Petitioner

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent

SARKES TARZIAN, INC.,
Intervenor

ON PETITION TO REVIEW AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

BRIEF OF INTERVENOR

United States Court of Appeals
for the District of Columbia Circuit

FILED OCT 3 1968

DONALD C. DUCK
JAMES S. HARARY
DOUGLAS J. HILL
800 Union Federal Building
Indianapolis, Indiana
Attorneys for Intervenor

Nathan J. Vancow
Of Counsel

CADICK, BURNS, DUCK & NEIGHBOURS
800 Union Federal Building
Indianapolis, Indiana

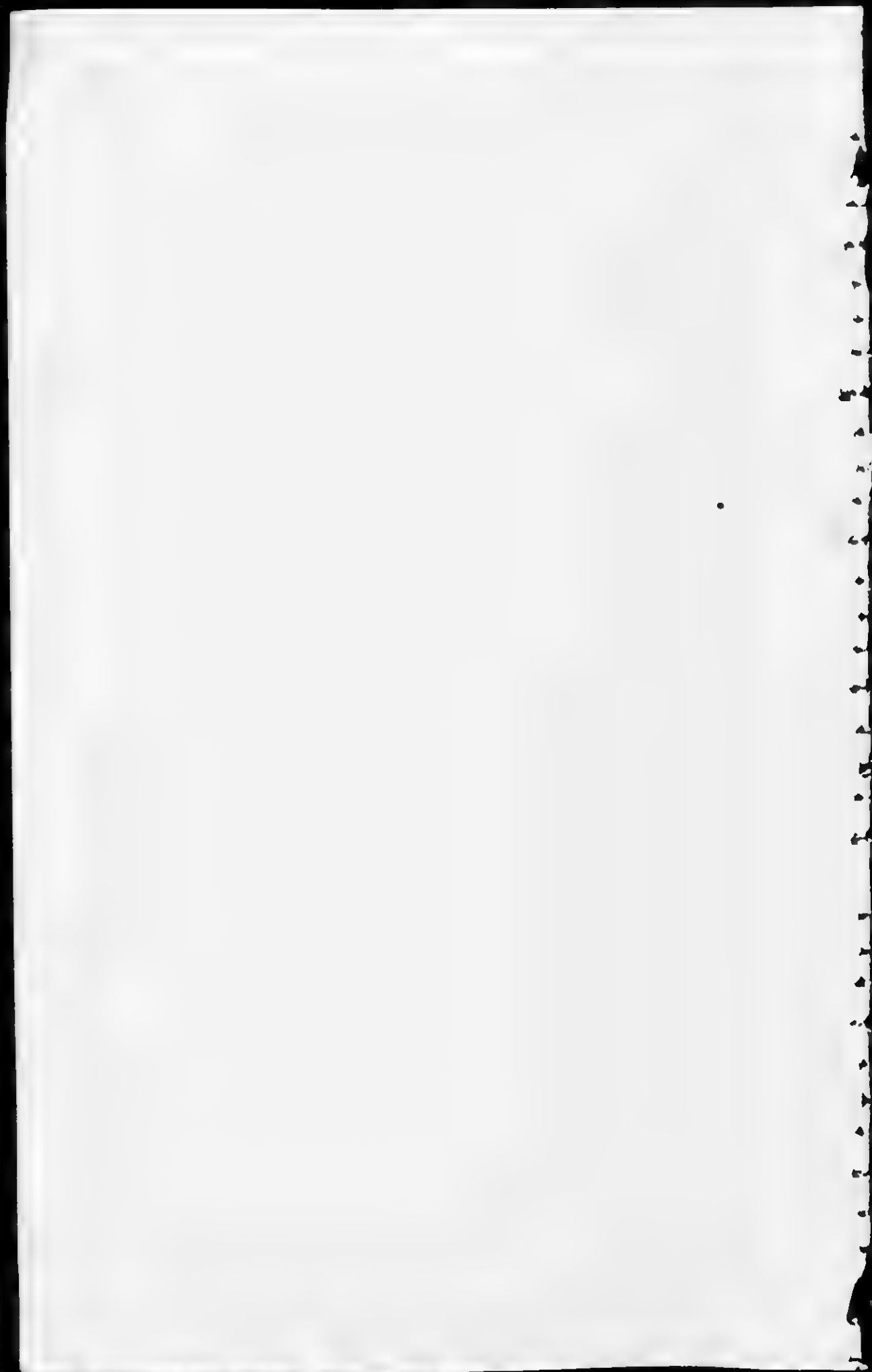


TABLE OF CONTENTS

	Page
Statement of Issues Presented for Review.....	1
Counter Statement of the Case.....	2
A. Nature of the Case and Proceedings Below.....	2
B. Statement of Facts.....	2
1. Medical leave of Agnes Felty.....	2
2. Discharge of Bobbie Bennett.....	9
3. Termination of Reva Robertson.....	12
4. Rules affecting night shift maintenance men	14
5. Rule concerning use of restroom.....	17
Argument	18
A. Substantial Evidence on the Record Considered as a Whole Supports the Board's Findings That the Company Did Not Violate Section 8(a)(3) of the Act	18
1. Medical leave of Agnes Felty.....	18
2. Termination of Reva Robertson.....	25
3. The Discharge of Bobby Bennett.....	27
B. Substantial Evidence on the Record Considered As a Whole Supports the Board's Finding That the Rule Concerning Maintenance Men Was Adopted For Legitimate Economic Reasons.....	29
C. Substantial Evidence in the Record Considered as a Whole Supports the Board's Finding That the Company Did Not Engage in Improper Sur- veillance	30
D. This Case Properly Falls Under the Rule of <i>Universal Camera</i>	31
E. The Union's Conclusion Suggests Relief Outside the Scope of the Issues.....	33
Conclusion	33

TABLE OF AUTHORITIES

Cases:	Page
<i>Burinskas v. NLRB</i> , No. 18054, 55 LRRM 2300 (D.C. Cir. 1964).....	32
<i>Greco v. NLRB</i> , 331 F. 2d 165 (3rd Cir. 1964)....	32
<i>International Woodworkers of America v. NLRB</i> , 104 U.S. App. D.C. 344, 345, 262 F. 2d 233, 234 (D.C. Cir. 1958).....	21
<i>Lorain Journal Co. v. FCC</i> , 122 U.S. App. D.C. 127, 351 F. 2d 824 (1965), <i>cert. denied sub. nom. WWIZ, Inc. v. FCC</i> , 383 U.S. 967 (1966)	20, 21
<i>Oil, Chemical and Atomic Workers International Union, Local 4-243 v. NLRB</i> , 124 U.S. App. D.C. 113, 362 F. 2d 943 (D.C. Cir. 1966).....	18, 19, 20, 32
<i>Retail Store Employees Union v. NLRB</i> , 122 U.S. App. D.C. 131, 360 F. 2d 494 (D.C. Cir. 1965)	32
<i>Steel Industries, Inc. v. NLRB</i> , 325 F. 2d 173 (7th Cir. 1963).....	26, 27
<i>Universal Camera Corp. v. NLRB</i> , 340 U.S. 474, 492-497 (1951).....	18, 31, 32
<i>Warehousemen and Mail Order Employees, Local 743 v. NLRB</i> , 112 U.S. App. D.C. 280, 302 F. 2d 865 (D.C. Cir. 1962).....	18
Statute:	
National Labor Relations Act, as amended (61 Stat. 146, 29 U.S.C. § 151, <i>et seq.</i>):	
Section 8(a)(1).....	1, 2, 19, 33
Section 8(a)(3).....	1, 2, 19, 21, 27, 29, 33
Section 10(f)	2

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS,
Petitioner

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent

SARKES TARZIAN, INC.,
Intervenor

ON PETITION TO REVIEW AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

BRIEF OF INTERVENOR

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether the Board erred in refusing to find that the Company violated Section 8(a)(1) of the Act by promulgating its rule against "relaxation" for night shift maintenance men and by engaging in surveillance of certain of its employees.

2. Whether the Board erred in refusing to find that the Company violated Section 8(a)(3) and (1) of the Act by discriminatorily discharging and refusing to reinstate three employees.

COUNTER STATEMENT OF THE CASE

A. Nature of the Case and Proceedings Below.

This case is before the Court on the petition of the International Brotherhood of Electrical Workers (hereinafter called the "Union"), to review an order of the National Labor Relations Board. The Court has jurisdiction of this case under Section 10(f) of the National Labor Relations Act, 29 U.S.C. § 160(f).

This case originated upon the filing of charges by the Union against the Intervenor, Sarkes Tarzian, Inc., (hereinafter called the "Company"), alleging violations of the Act. Complaints were issued alleging violations of Section 8(a)(1), (3), and (4). The Union had also filed objections to a Board election held among the Company's employees. A consolidated hearing was held before the Trial Examiner on the issues of alleged unfair labor practices and pre-election conduct.

The Trial Examiner concluded that the Company had violated Section 8(a)(1) by its promulgation of rules concerning night shift maintenance men and by surveillance of its employees. He also found three violations of Section 8(a)(3) based upon a discharge and action taken with regard to two employees whom he found to have been constructively discharged. The Board disagreed. It found in each instance that the General Counsel had not proven that the Company had violated the Act and ordered the complaints dismissed. The Board's decision is reported at 169 NLRB No. 84. The Union's petition is for review of that decision.

B. Statement of Facts.

1. *Medical leave of Agnes Felty.*

Agnes Felty began working for the Company in April, 1962. She did solder work with a hand soldering iron until

her transfer to the production machine shop. (R. 41)¹ Mrs. Felty's transfer to that shop was made in September, 1963. (R. 41, 329) In September, 1965, because of a layoff, all girls in the machine shop with crimp and solder patterns were transferred to production assembly and Mrs. Felty was among this group. (R. 42-43, 330-331) She was transferred to an assembly line where she performed a crimp and solder job for a week to ten days. Then she was moved to another line where she performed a solder job. (R. 43, 331)

After working on the soldering job for a month, Mrs. Felty brought two statements from her doctor in which he stated that she was under his care for an upper respiratory allergy. In the second he stated that she should have approximately thirty days leave of absence. As a result, Mrs. Felty was placed upon the recommended thirty-day medical leave of absence. Mrs. Felty admitted that prior to and at the time of her leave she was doing a soldering job. (R. 43-44, 73, 331, GC Exh. 5, 6)

On December 13, 1965, Mrs. Felty returned to work and brought in a statement from her doctor stating that she was able to return to work. (R. 44, 332, GC Exh. 4) On that date she went back to her assignment on assembly line 4 but testified that she was again bothered by solder fumes and, therefore, went to see her physician. She provided the Company with another statement from her doctor in which he said that Mrs. Felty was again under his care for a respiratory allergy and that she was sensitive to soldering fumes and should not work in that type of atmosphere. (R. 45-46, GC Exh. 3) Mrs. Felty was then later assigned to production assembly line 8 to a rivet base position at the beginning of the line. There were approximately 40 to 44 girls working on line 8 with about half of them doing soldering. Some soldering was done

¹ "R" refers to original transcript.

within five or six feet from Mrs. Felty. (R. 47-48, 332-333) Mrs. Felty testified that she did not have any problem with solder fumes when she was working on the rivet base job. (R. 48)

Mrs. Felty continued working on line 8 through Monday, April 18, 1966. As a result of a production meeting, it was decided to dissolve line 8 at the close of work on that date. (R. 334) The persons who had worked on line 8 were reassigned, to the extent possible, by Anna East, Mr. Polley's administrative assistant. (R. 334-335) In making the reassignments, Mrs. East began with the daily inventory of personnel on the production floor and then attempted to place the operators on other lines but in the same jobs which they were performing on line 8, if jobs of that type were open. Approximately nine of the girls were assigned to jobs which they had previously performed on line 8. With the balance of the girls, Mrs. East tried to match those who were working on soldering to other soldering jobs. All of the girls were placed in assignment, with the exception of approximately twelve girls for whom there were no assignments and who were placed as "extras." (R. 394-396) Six of the extras had indicated their intention to quit and therefore were not assigned. Agnes Felty was assigned to production line 4 on an all-crimp job by Mrs. East who was aware of the fact that Mrs. Felty had experienced a problem with solder fumes in the past. It was for this reason that Mrs. East made the assignment to the crimp job. (R. 396-397)

There was testimony concerning the work classifications or job "patterns" used by the Company necessary to an understanding of the assignments given to Agnes Felty and the jobs which she performed. When applicants first apply for jobs with the Company, they are tested to determine their job pattern, which is an indication of a job that the person should be able to perform best. In the plant there are crimp and solder patterns, tester patterns, in-

spection and quality patterns, machine operator patterns, mechanical patterns, and technical patterns. (R. 35, 324-325) Depending upon the test results, each employee is assigned to a particular pattern. Within the crimp and solder pattern there are two types of work, as the name implies. Crimp work is performed by an operator through the application of a tool upon a part and wrapping, crimping, or cutting of the part. The soldering work also falls within this pattern and consists of the use of a soldering iron in making electrical connections or the use of a solder pot which applies bulk solder. (R. 324) The category of "machine operator's pattern" is reserved for workers with high seniority who may be getting along in age or may have physical handicaps such as arthritis, rheumatism, allergies, etc. Of the approximately 500 production and maintenance persons in the tuner plant, there are only 55 to 60 people with a machine operator's pattern, and persons with less than six years' seniority are not considered for the pattern. At the time of the hearing, and in April, 1966, the person with the least seniority in the category had ten years' seniority. (R. 325-328)

The Company's policy with regard to the machine operator pattern is that if there is a machine operator's job available, and an employee with a machine operator's pattern also available to fill it, that employee will be assigned the machine operator's job. If there is a machine operator's job available, but no person with a machine operator's pattern available to fill it, then the job is filled with a girl with a crimp and solder pattern. Crimp and solder pattern people are never assigned to machine operator jobs when there are persons with machine operator patterns available to fill the position. (R. 330, 373) The job assignments of Agnes Felty are an example of this policy and although she had worked various jobs, including some calling for machine operators, Agnes Felty's crimp and solder job pattern was not changed. (R. 37, 328)

On April 19, 1966, the date of Mrs. Felty's reassignment to line 4 as a result of the dissolution of line 8, there were no permanent open jobs calling for a machine operator pattern. There was a single temporary opening on line 4 on the third operation of rivet base resulting from the illness of an employee who was to be off for two weeks. As a result, Margaret Hopkins, who had performed the third operation on rivet base on line 8, was temporarily assigned to the identical job on line 4. (R. 401-402)

On Tuesday, April 19, 1966, Mr. Polley and Mrs. Felty talked in Polley's office. Mrs. Felty told Polley that she had been assigned to a line she could not work on and that she had a doctor's statement that she was allergic to solder fumes. Mr. Polley replied that she had not been assigned to a job involving soldering and that they had made it a point to give her an all-crimp operation. Mrs. Felty replied that she could not work on the line. Mr. Polley then suggested that she try the job to find out if she could do it. They also discussed the machine operator jobs, and Polley explained the Company policy of placing some of the high seniority girls on those jobs. (R. 56-57) Mrs. Felty then indicated that she would try the job although she did not think she could do it. (R. 237)

The next day Mrs. Felty came to the production office and told Mrs. East that she was having difficulty. Mr. Polley and Mrs. Felty again talked in Polley's office and he asked what was wrong. Mrs. Felty replied that she could not do the job to which she had been assigned. She said the solder fumes were bothering her. Mr. Polley then inquired about the job and asked where the nearest girl was doing soldering, and Mrs. Felty replied that there was a girl on each side with a soldering iron. Mr. Polley asked whether the girls had fans to carry away the solder fumes and Mrs. Felty replied, "Yes, but it wasn't doing any good." Mr. Polley then told Mrs. Felty that in order to

help her to work on the line he would arrange for her to have a fan normally used by girls with soldering iron work even though she had an all-crimp job. Mr. Polley arranged for the foreman to check out a fan for Mrs. Felty. Mr. Polley told Mrs. Felty that she should give the job a fair trial to see whether she could do it. (R. 338-339, 399)

Mrs. Felty testified that she returned to line 4 to her job and that about fifteen minutes later Mr. Young brought a fan to the line and turned it directly in her face and that it "started me to smothering and choking worse." She testified that the fan was placed on the backside of the conveyor line toward her face and that it blew the smoke and fumes directly in her face. She testified that she told her assistant foreman that she couldn't sit there any longer; that she could not stand the smoke. Felty told her that she was going home at the 9:00 break. About twenty minutes later, around 8:00 a.m., Mr. Young brought a relief girl to her and said, "Agnes, if you feel that bad, you can just go home right now." Mrs. Felty testified that she then got up and left the line, checked out through the dispensary, and left the plant at 8:30 that morning. (R. 60-62, 77-78)

Fans are generally used by the girls actually doing soldering in order to help carry away the fumes. They are normally set upon the table and the girls adjust the fans to suit themselves in order to carry away the fumes. Mr. Young testified that he set the fan down, did not recall whether or not he plugged it in, and did not attempt to "place" or to make any adjustments on it. He further testified that he did not make adjustments on any of the fans. (R. 410, 414-415)

The following day, Mrs. Felty called Mrs. East and told her that she was having a respiratory problem and was going to the doctor that afternoon. That day the Union's charge was filed alleging that Mrs. Felty had been transferred because of her union activities.

On the following Monday, April 25, 1966, Mrs. Felty reported to Mrs. Haynes, the plant nurse. She gave Mrs. Haynes her doctor's statement and Mrs. Haynes told her to see Mrs. East. Mrs. East asked that she see Mr. Polley. Mrs. Felty presented her doctor's statement to Mr. Polley, and it stated that Mrs. Felty was under the care of Dr. Hibner, that she had a respiratory condition which was aggravated by solder fumes, and that "*she must not come in contact with such fumes.*" Mr. Polley told Mrs. Felty that he did not know what to do with her if she were going to work in the factory because there were soldering fumes throughout the whole area and he didn't know where to put her where she wouldn't come in contact with soldering fumes. There are 200 to 250 soldering jobs carried on all over the factory floor with the exception of the production machine shop area. It was concluded that under the circumstances, and particularly in light of the doctor's statement, it would not be safe for Mrs. Felty to work in the factory, that she should be put on medical leave based on the doctor's statement, and that she could return when she brought a statement which indicated it was all right for her to work under the factory conditions. (R. 62, 63, 333, 339-341, 400) Mr. Polley informed Mrs. Felty that she was being placed on medical leave. (R. 63-64) Mrs. Felty was sent, and received, the usual notice of leave of absence on April 25, 1966. The leave of absence ran until May 23, 1966. (R. 447, R. Exh. 9)

On May 23, 1966, Mrs. Felty called the Company and was told that she should report to work on that date or notify the Personnel Department that extension of her medical leave was required. The Personnel Department elected to treat her call as such a request and extended her leave to June 20, 1966. She was told that she should report back to work on that date or prior to that time with an appropriate doctor's statement. (R. GC Exh. 8)

There followed a series of letters between Mrs. Felty and representatives of the Company. The letters were placed into evidence as exhibits. Mrs. Felty's letters generally stated that the medical leave was involuntary and that she was willing to return to work at any time to a job that would not directly expose her to solder fumes. The Company's letters reflected its position that it had on file her doctor's written statement that she must not come into contact with solder fumes, that she must provide a statement from the doctor to the effect that contact with solder fumes would no longer be injurious to her health, and that the company would be quite willing to grant additional extensions of her medical leave. (R. GC Exhs. 9-13)

Mrs. Felty testified that she signed several union authorization cards, that she was on the Union Organizing Committee in 1962, and that she was still a member of the Organizing Committee when she left work in 1966. She also testified that she passed out union literature in 1962, passed out union cards to other employees, and attended union meetings in 1966. She also testified that she turned over signed union cards to the union representative. She testified that she wore a Union Organizing Committee button beginning on April 25, 1966, which was after she had discontinued working in the plant and after the filing of the charge. (R. 49-51, 66) There was no testimony of any knowledge on the part of any Company representative of the union activities of Mrs. Felty.

2. Discharge of Bobbie Bennett.

Bobbie Bennett began her employment with the Company in January, 1966. She worked on several different jobs and then was assigned to a position on line 9. On May 24, 1966, production line 9 was dissolved. The operators on line 9, including Bobbie Bennett, were transferred to other assignments. Mrs. Bennett was transferred to the stickwind-

ing department under the supervision of foreman, Howard Trinkle. (R. 158-159, 351) Mrs. Bennett and other transferees were told of the normal trial period of two weeks and that at the end of that time they were expected to reach the expected rate of twenty-nine (29) trays per day. (R. 257-262)

During her two-week training period, Bobbie Bennett failed to make her required rate. Therefore, on June 7, 1966, foreman Trinkle talked with Bennett and told her that she had not made her rate but that he felt that she should have an extra week to attain it and placed her on probation to June 13, 1966. (R. 262-264, GC Exh. 16) However, the highest rate which Bennett was able to achieve was 16 trays, which she admitted to have attained only once. On June 15, 1966, foreman Trinkle again talked with Mrs. Bennett and told her that he felt she had been given a fair amount of time to make the rate and there would be no sense in her going any further with her training. He told her that she would have to be terminated. On June 15, 1966, Bobbie Bennett was terminated from employment with the Company because she was unable to make her required rate of 29 trays per day. (R. 173, 276, 279-281, 286, GC Exh. 17, R. Exhs. 2, 3)

Bobbie Bennett had signed a union authorization card, attended union meetings prior to the election, wore a union badge at work prior to the election, passed out union cards and union literature, and told Mr. and Mrs. Tarzian at meetings which were held in the plant that she was 100% for the union. (R. 163-167, GC Exh. 29, GC Exh. 25)

Bobbie Bennett testified that employee, Betty McLaughlin, who had worked on line 9 and was transferred to the stickwinding department, was transferred back to line 9. Karen White testified to the same effect. However, both admitted that line 9 had been dissolved. Mrs. White testified that when McLaughlin was transferred back to line 9,

the line was composed of different girls and that the line consisted of an entire other line which had been transferred from line 7. (R. 170, 174, 231-235) Production Manager Polley explained that the line number designation simply identifies a physical production line facility in the plant and that the line number designation does not mean a particular type of job or that a particular tuner is manufactured on that line. (R. 374)

Sandra Laven was also an employee under the supervision of Howard Trinkle. She began her employment in the stickwinding department a day or so prior to Bobbie Bennett and performed a job identical to that of Bobbie Bennett. Following Mrs. Laven's two-week training period, Mr. Trinkle placed her on probation to June 13, 1966, for failure to make her required rate of 29 trays per day. (R. 291-292, R. Exh. 1) On June 15, 1966, the same date as the termination of Bobbie Bennett, Sandra Laven was terminated for failure to make her required rate. (R. 292, 294, R. Exh. 4)

Sandra Laven was rehired by the Company on July 20, 1966. Laven testified that prior to the Company vacation period, a personnel employee, Ruth McCoy, called her and told her to come in on July 18, that she went in on July 19 and saw Mrs. McCoy who told her that they had a job for her at the rectifier plant. She testified on cross-examination that she had completed as many as 21 trays per day on her job as a stickwinder, that she was not doing stickwinding work now but rather in her new employment was performing test work upon which there was no required rate. (R. 153-156)

Ruth McCoy, an interviewer of female factory applicants in the Personnel Department, testified that she first met Sandra Laven on the day that she was terminated. Mrs. McCoy's next contact with Sandra Laven was approximately a week later when *Mrs. Laven* called Mrs. McCoy

asking for re-employment. Mrs. McCoy replied that she would check into it. Mrs. Laven again called for Mrs. McCoy on June 30, 1966, but Mrs. McCoy was not in at that time. Mrs. McCoy's next contact with Mrs. Laven was on July 19, 1966, when Mrs. Laven, without invitation, came to the Personnel Department. Mrs. Laven told Mrs. McCoy that she wanted employment and needed work very badly. Mrs. McCoy replied that to her knowledge there was nothing available, but there was something she was checking on and if it developed she would let Mrs. Laven know. On the afternoon of July 19, Mrs. McCoy then called Mrs. Laven and told her she felt she had something for her in the air trimmer division on Walnut Street. Mrs. McCoy asked her to come in the following day. Mrs. Laven did come in on July 20 and was hired on that date for work in the air trimmer division. Bobbie Bennett had never applied for re-employment with the Company. (R. 497-507, R. Exh. 10)

3. Termination of Reva Robertson.

In May, 1966, it was determined to reduce the number of quality girls by one because of the unavailability of coil-winders. Production Manager Polley discussed the reduction in force with quality foreman Parish and night foreman Payne and gave them instructions to carry out the reduction on the basis of the seniority of the quality girls. The girl with the least seniority was Twila Robbins who worked in the production machine shop. Polley told Parish and Payne to tell Mrs. Robbins that it was necessary to reduce the quality force at night and that she would be the one reduced since she had the least seniority. Since the reason for the reduction was that there were not enough coilwinders, and winder positions were open, he told them to offer her a job as a winder if she would like to work at it. Parish and Payne then talked to Mrs. Robbins in the production office, and Mrs. Robbins agreed to take a job as

winder rather than to leave the employ of the company. (R. 346-347, 382-383)

Following the conversation with Mrs. Robbins, Parish and Payne called in the remaining three quality audit girls then working in the coilwinding department, Clemons, Branum, and Robertson. Reva Robertson had the least seniority of those girls. Parish told the girls of the reduction of Mrs. Robbins and that in line with seniority Reva Robertson would be assigned to the production machine shop audit operation in place of Mrs. Robbins. (R. 383-384) In February, 1966, Reva Robertson had begun training on that job and as a result brought in a doctor's statement from her doctor stating that the dust and material created by the machines had caused difficulty for Mrs. Robertson and suggested that she be removed from that area. (R. 89-90, GC Exh. 14) In her conversation with Parish she reminded him of the problems she had had and told him that she did not feel she could accept that job. Parish then told her that rather than take the shop job, he would offer her an opportunity to take a coilwinder's job.

Mrs. Robertson also declined to accept this job because ten or eleven years earlier she had a soldering job and the fumes had bothered her. (R. 105, 115) Parish urged her to try the job. Anna Branum offered to take a layoff so that Robertson could keep her job, and Rita Clemons offered to take the job in the shop for the same reason. Parish did not allow this. (R. 106-107) Mrs. Robertson asked for time to think about the situation, and the following day she notified Parish by telephone that she was quitting. (R. 388, 107)

On her direct examination, Mrs. Robertson testified that one week prior to refusing the coilwinding job on the grounds of an allergy, she had told foreman Payne that if some complaining girls on that same job wanted a quality job, she would trade with them for a while. (R. 102, 112)

She also asserted that her irritation from solder fumes resulted only from "pot soldering" and not "hand soldering." (R. 114-115)

There was evidence that Robertson signed a union authorization card in April, attended a union meeting about a week later, and joined the organizing committee on May 4, 1966. She wore a union button at work, passed out union cards, and distributed union leaflets during nonworking time. (R. 99-101)

4. Rules affecting night shift maintenance men.

In the stickwinding department, the machines are rather old and require maintenance when they break down. Break-downs occur with some frequency and it is not an unusual situation. The machines are operated during the day and the night shifts, and there are maintenance problems associated with the equipment. Machine delay time, which is the time during which machines are down and not operating, was excessive on the night shift. This problem, along with the other night shift problems, was discussed by Jennings Polley, the production superintendent, with Bill Payne, the night shift foreman, almost each evening. (R. 277-278, 352-354)

There were complaints from the winder operators that machine maintenance was not being performed and group leaders had observed the maintenance men doing a good bit of sitting around and talking. In addition, there were instances of maintenance men delaying work on machines by standing around and talking when asked to repair a machine and other instances of horse-play by the maintenance men. (R. 426-427, 462, 470, 479) Mr. Polley testified that the night shift had presented continuing problems. (R. 355)

For at least the past several years prior to the hearing, it had been the practice on the night shift for the mainte-

nance men to work in sets other than their own if the machines in their sets were in good condition. (R. 429-430, 443-444, 450-452, 454, 463-465) It had also been the practice of the Company to rotate maintenance men among the sets, generally two weeks at a time on a set. (R. 430-431, 462)

In April, 1966, foreman Payne held a meeting of the night shift maintenance men one evening shortly after the shift began. The talk lasted approximately ten minutes and Payne told the maintenance men that there had been complaints from the operators that the maintenance men were not getting their jobs done and that he wanted them to stay in their sets, but that if their machines were working, they should go to the other sets and work on machines which were broken. Following this talk there was another talk later in April by Payne to all of the maintenance men which covered the same subject of their working in other sets rather than sitting and loafing, and he further told the maintenance men that they would be rotating sets. (R. 425-426, 430-431, 443)

Tom Beech, who first wore a Union button on April 14, also testified concerning the April meetings. (R. 124) He further testified that there had been a previous policy of rotating sets, but that it had been changed several weeks prior to Payne's talk. Beech also testified that he was on the best and newest set of machines from the end of March until April 15. (R. 128-129) Beech stated that prior to April 15, 1966, he had been instructed by Payne that he was to stay on the machines to which he had been assigned and to be present in case any machines broke down. He testified that at the April 15 meeting, Payne instructed the maintenance men that they were to keep busy at all times and "no longer to sit down at all and quit talking to the girls, to keep busy at all times, and if the new machines were running properly, to find work somewhere along the

lines, even if the machines weren't being operated, we were supposed to check them out." He testified that the rule applied to all maintenance men on the night shift and that it continued as long as he worked for the Company, which was only for a week following the meeting. Beech admitted that helping in other sets had been a practice *prior* to the date of the meeting. (R. 130-132, 137)

In furtherance of enforcement of the rule concerning the maintenance men following his meeting with the men, Payne told assistant foreman Porter to talk with the group leaders. Mrs. Porter talked with the group leaders individually. She told group leader Emily White that if the maintenance men in her set were not busy, to make sure that they got on another machine because the girls had been complaining about not getting their machines fixed. Group leaders Sharon George and Margaret Brothers were told the same thing, and the instructions were carried out. (R. 422, 426, 458, 460, 465-466, 476-478) However, there was some evidence that following Beech's termination some maintenance men were observed sitting and talking to girls on the line. (R. 209)

Tom Beech testified that when he was interviewed for his position with the Company he talked with a representative of the Personnel Department and told him that he would have to work on the night shift. Beech was attending law school during the day, but this fact was unknown to the Company. (R. 122, 135-139, 141)

On April 14, 1966, Mr. Payne, the night foreman, told Beech that he was being transferred from the night shift to the day shift beginning on the following Monday because one of the maintenance men on the day shift had quit. Beech complained that he would have to have night work, and that the Company was aware of this. Payne replied that Mr. Polley had made the transfer. Payne further said that if Beech wanted to complain, he could

see Mr. Polley the following day. The following day Beech talked with Polley in his office and repeated his complaint. Following this, Polley said it was agreeable with him to let Beech remain on the night shift and Polley rescinded the order of transfer. (R. 124-125)

5. *Rule concerning use of restroom.*

Reva Robertson and Anna Branum, who worked on the night shift, were told in April, 1966, by girls on the production line that there was a new rule concerning going to the restroom. Mrs. Branum did not testify as to the content of the rule but simply testified that she was told there was a new rule. Mrs. Robertson testified that she understood the rule to be that no two friends or persons who worked together were to go to the restroom together. She testified that she heard about this rule on April 14 and that prior to that time she had gone to the restroom with Anna Branum. (R. 93-94, 205) Mrs. Branum further testified that the same evening she heard about the rule, she saw foreman Bill Payne and assistant foreman Grace Porter sitting on the line in front of the restroom with a pad of paper and pencil and that each time a girl went into the restroom they would write *something* on the paper. She also testified that Grace Porter followed her into the restroom and was still there when she left the restroom. (R. 205-206)

Reva Robertson testified that following April 17 or 18 whenever she went to the restroom either Emily White, Sharon George, or Grace Porter would follow her and would go into the restroom when she did. Grace Porter was assistant foreman and Emily White and Sharon George were group leaders in the voting unit. Mrs. Robertson further testified that she had observed Grace Porter and Maxine Chamness follow Mrs. Branum into the restroom. Maxine Chamness is a maintenance woman and in the voting unit. (R. 94-96, 459, 472)

charged this function. Its decision sets forth and makes clear that the Examiner's decision was given attentive consideration. The Board did not take up every evidentiary item discussed by the Examiner. No such requirement can reasonably be implied. It suffices that the Board addressed itself to key items of evidence which were crucial in terms of the Company's alleged status as employer, and fairly indicated the basis on which it was drawing inferences contrary to those of the Examiner. . . ." (362 F. 2d at 946)

The relationship between an administrative agency and its examiner were also commented upon in *Lorain Journal Co. v. FCC*, 122 U. S. App. D.C. 127, 351 F. 2d 824 (1965), *cert. denied sub. nom. WWIZ, Inc. v. FCC*, 383 U.S. 967 (1966):

"... We have carefully examined the Commission's consideration of the Examiner's views because of the claim of appellant Journal that the Commission had failed to give sufficient weight to the Examiner's findings under the standard of *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 71 S.Ct. 456, 95 L.Ed. 456 (1951). We are fully appreciative of the importance of the contribution of the hearing examiners to the maintenance of the rule of law in the decisions of administrative agencies. But their authority to render initial decisions does not mean that the various boards and commissions are relegated to the role of reviewing courts who sustain fact findings of courts of first instance unless clearly erroneous. *FCC v. Allentown Broadcasting Corp.*, 349 U.S. 358, 364, 75 S.Ct. 855, 99 L.Ed. 1147 (1955). The responsibility for decision is placed in the Commissioners appointed by the President and confirmed by the Senate to discharge the function of administering the statutes under the agency's cognizance.

"The agency heads must take the decision of the examiner into account. Indeed, we have only re-

cently remanded a board decision which changed the decision rendered by the examiner without adequate showing of the basis on which it rejected the examiner's conclusion. *Retail Store Employees Union v. NLRB*, No. 19051, decided July 13, 1965. But the foregoing recital clearly shows that in this case the Commission did study and address itself to the salient conclusions and reasoning of the Examiner. Thereafter, it is for the agency to draw its own inferences and reach its own conclusions for implementing the statutory mandate. The agency's conclusions must be sustained if supported by substantial evidence even though there is also substantial evidence to support the contrary conclusion of the examiner. The Examiner's report is entitled only to 'such probative force as it intrinsically commands' (see 340 U.S. at 495, 71 S.Ct. at 468). In this case, even assuming that the Examiner's report reflects a plausible view of the evidence, it does not negative the Commission's conclusions as a permissible view of the significance of the facts shown by the evidence. There are indeed items of evidence supporting the Examiner's conclusion. There are also countervailing factors. It is for the Commission to measure the force of the various vectors and to chart the resultant in the parallelogram of forces." (357 F. 2d at 828)

See *International Woodworkers of America v. NLRB*, 104 U.S. App. D.C. 344, 345, 262 F. 2d 233, 234 (D.C. Cir. 1958).

The Board followed the principles which have been established by this Court and the Supreme Court of the United States. The alleged violations of Section 8(a)(3) involved three employees—Agnes Felty, Bobby Bennett, and Reva Robertson. The Board considered each of these separately. The Board reversed the Trial Examiner's finding that Agnes Felty had been constructively discharged. It completely restated the facts involved in her medical leaves and reassignments. In that statement the Board adopted many of the facts found by the Trial Examiner

and added others which he had omitted. Briefly, the Board found that after having worked for the Company for several years, Mrs. Felty was transferred to solder work. She took a medical leave as a result of a sensitivity to solder fumes, and when she returned to work she continued to be bothered by solder fumes. She was reassigned to several non-solder jobs with no difficulty. On April 18, 1966, Felty's line was dissolved and she was reassigned to another crimp job with no solder work. Felty complained that she was bothered by fumes, but she was urged to try the job, and efforts were made to help her. There were no open jobs which Felty could perform which would not bring her into contact with solder fumes. After a brief attempt at the job, Felty left the plant. After several days she returned to the plant with her physician's statement that she "must not come in contact" with solder fumes. As a result she was placed on medical leave. These findings are all supported by substantial evidence in the record.

Following these findings, the Board analyzed the Trial Examiner's conclusion that the Company had constructively discharged Felty when it assigned her to the crimp job. This analysis appears on pages 7-9 of the Board's decision. It states the reasons for the Board's disagreement with the Trial Examiner and adds specific reasons for the Board's contrary finding.

In its brief, the Union has attacked what it considers to be the four principal factors relied upon by the Board. (Br. 19) The first factor was that there were numerous examples of efforts made by the Company to accommodate Felty and retain her in its employ. The Union argues that these efforts occurred during a lull in union organizational activities. This is hardly persuasive. The period of time to which the Union refers was actually a time when matters were pending before the Board as a part of the Union's organizational effort. If an inference of Company knowl-

edge of Felty's union activities is to be made (a matter which the Board found it unnecessary to decide) the same inference would have to relate back to 1963, since her union activities extended back to that date and were the same as those in which she engaged in 1966. Furthermore, the examples of Company conduct used by the Board to illustrate the Company's attempt to aid Felty included acts which occurred *on and after* April 19, 1966, the date of the alleged constructive discharge.² The Union brief ignored these findings.

The Union next argues that the Board's reliance upon the assignment of Felty to all-crimp work is specious. (Br. 20) It states that this assignment placed her between two employees with solder irons and thus in the same position she was in when she took her medical leave in November, 1965. This is an incorrect statement. The Board found the fact to be that in November, 1965, Felty was actually performing solder work, and Felty admitted this. (B.D. 5; R. 73) The record clearly supports the Board's findings. The facts show that in April, 1966, she was *not* placed in the same job she held when she took her earlier medical leave. She was assigned to a job which did not involve any soldering in a further attempt by the Company to avoid her problem with solder fumes.

Next, the Union argues that Felty *could* have been assigned to the temporary opening to which Margaret Hopkins was assigned. (Br. 20) But the Union neglects the Board's finding that the Company's policy in making as-

² One of the acts of accommodation by the Company was supplying Felty a fan to enable her to clear her immediate area of smoke. By totally ignoring undisputed facts the Trial Examiner found that the foreman placed the fan so as to blow fumes into Felty's face, thereby inferring a deliberate act to further hinder Felty. This is an example of the weakness of the Trial Examiner's inferences, and perhaps illustrate a reason for the Board's contrary action.

signments following the dissolution of a line was to assign persons to openings of the *same* jobs on different lines, if possible. Hopkins was performing the third rivet base operation on the dissolved line and the temporary assignment was to an identical position. The other jobs to which the Union refers are not shown to have been open. The Union's reasoning is contrary to the Board's specific fact finding that there were no jobs suitable for Felty which would not bring her into contact with soldering fumes, other than machine operator jobs, and that no regular machine operator jobs were open. The fact that Felty *could* have performed a job is irrelevant if the job is not shown to have been open.

Finally, the Union argues that the Company's system of job patterns is merely a means to further discriminatory practices, particularly as applied to machine operators. (Br. 20) The Union misconstrued the position of the Company and the Board's finding with regard to that pattern. It is not based solely upon seniority as the Union would lead one to believe. Therefore, inconsistencies in seniority practices are irrelevant, even assuming that they exist. The Company's practice with regard to the machine operator's pattern was clearly stated in the evidence just as it was found by the Board. It is reserved for high seniority employees who for a number of varied reasons have trouble with the other jobs. Jobs calling for machine operators are never filled with employees having crimp and solder patterns unless there are no employees available with a machine operator's pattern. Nothing pointed out by the Union shows this policy to have been applied inconsistently. The Company's application of the policy in Felty's case during her employment prior to April, 1966, and at the time of her reassignment, was consistent with its general practice. The Union's argument to the contrary is without support.

The Company submits that the Board's findings with regard to the treatment accorded Agnes Felty are amply supported in the record. The Board expressly gave a great deal of attention to the findings and reasoning of the Trial Examiner, but drew contrary inferences based on the record as a whole. The record provides substantial evidence to support the Board's conclusion that the Company did not violate Section 8(a)(3) in this instance.

2. Termination of Reva Robertson.

The Board also concluded that the Company had not constructively discharged Reva Robertson. It found that the Company decided to reduce the night shift quality audit staff by one because of a shortage of coilwinders. The girl with least seniority, who was assigned to the production machine shop, was told she would be laid off but was given an opportunity to take a coilwinders's job, which she accepted. Robertson, next lowest in seniority, was told she would be assigned as replacement in the production machine shop. Robertson reminded Parish, her foreman, that she had earlier had problems due to dust and fumes in that shop, so he offered her the alternative of a coilwinder's job. She said that about ten years earlier she had been bothered by solder fumes and also declined to accept that job. One of the other inspectors offered to take a layoff in place of Robertson, and another offered to take the machine shop job, but were refused. The Board found that Robertson thereupon quit. Again, the Board followed these findings with a study of the Trial Examiner's reasoning and its own reasons for rejecting his inferences.

The Union brief asserts that the Trial Examiner based his decision upon credibility findings but a reading of his decision does not reveal that to be so. (Br. 24) The only real conflict in the evidence concerned whether Mrs. Robertson told Parish she would quit in a telephone conversation

between them the day *following* the reassignment. She admittedly told him the previous day she would have to quit rather than to accept the soldering assignment. But this credibility resolution of the conversation the following day had no bearing upon the Trial Examiner's decision since he found a constructive discharge to have occurred at the time of the reassignment. There are no differences in the facts as found by the Trial Examiner and those found by the Board. The differences occur in the inferences drawn.

The Board found two facts which cast some doubt upon the legitimacy of Robertson's reason for rejecting the coil-winder's job. First, she testified that her trouble with solder fumes occurred over ten years prior to the hearing, and, second she had offered to voluntarily trade jobs with the coilwinders *a week* prior to the reassignment. The Union refers to her offer as sarcasm, (Br. 25) but this is merely the Union's characterization of her testimony. Mrs. Robertson clearly admitted the offer and the Trial Examiner merely ignored it. Further support of the Board's doubt concerning Robertson's refusal may be found in the record since her "allergy" to solder fumes was activated only by pot soldering and not by hand soldering, which differ only in the method of solder application.

The Union and the Trial Examiner rely upon the Company's failure to accept the offers of the other employees to take a layoff or to substitute for Robertson. (Br. 25) However, no inference can be made from that action. A closely parallel situation involving assignments was presented in *Steel Industries, Inc. v. NLRB*, 325 F. 2d 173 (7th Cir. 1963). Some employees were transferred from day shift to night shift. Several days later an employee was transferred from night shift to day shift and refused the transfer. The trial examiner found a constructive discharge since there was no explanation of why the company had not retained one of the earlier transferees making

the later transfer unnecessary. The court found this reasoning beside the point and held:

"It might be, if the Trial Examiner had occupied the shoes of management, that he would have done so in order to accommodate both White and Brady. Even so, no inference unfavorable to the Company can be deduced from these circumstances. The shift assignments were matters peculiarly within the prerogative of management, and its reasonable business decision is of no legitimate concern either of the Board or the Courts." (325 F. 2d at 176-177)

The same rule holds true in the case of Robertson. There was no evidence in the record that the Company ever had allowed employees to decide who shall take layoffs or to choose their own positions. The Company submits that there was no evidence in the record to support the Trial Examiner and that certainly there is substantial evidence in the record to support the Board's finding that Reva Robertson was not constructively discharged.

3. The Discharge of Bobby Bennett.

The Board found, and the evidence proves, that Bobby Bennett was terminated for failure to meet her required production rate. However, the Trial Examiner found a violation of Section 8(a)(3) and relied upon evidence which he believed to illustrate disparate treatment. The Board concluded that the evidence did not show disparity of treatment, and it is this conclusion which the Union has challenged.

The Board specifically found that there was no discrepancy in the treatment of employees Bennett, McLaughlin and Laven to support an inference of discrimination. The Union argues that Laven, who was also terminated for failure to make rate, was rehired by the Company. (Br. 27) But, as the Board found and the record shows, Laven re-

peatedly applied for reemployment after her discharge, and was finally hired at a different job at a different plant. At several points in its brief the Union has accused the Board of "rifling the record." The Union argued that "Laven was called by someone in the personnel department and told to report," (Br. 27) without adding that prior to that call Laven had several times called the Company, and then personally appeared to again request employment. It would seem that misleading omissions such as this make the Union guilty of its own charge.

The Union also argues that the treatment of McLaughlin illustrates disparity. (Br. 28) It alleges that the Board's reason for finding no disparity was simply that there had been no dissatisfaction with McLaughlin's work. That is true insofar as it goes. McLaughlin was able to make her rate but the Board also found that McLaughlin was not transferred back to her old job but to another department, that McLaughlin threatened to quit and requested the transfer, and that Bennett made no such request. Furthermore, contrary to the Union's argument, McLaughlin's transfer does not show that there were openings other than the one she filled. The Board made an express finding that there were no jobs open for Bennett other than the one from which she was discharged. The Union would have to argue that Bennett should have been transferred *rather* than McLaughlin. There is nothing in the record to show this would have been possible or required in this situation.

The Union also relied upon the employment situation of Karen White, stating that she did not make rate and was not fired. (Br. 29) This is all the record shows. It is not established whether she retained her job or was transferred to another opening. There is no explanation. She testified concerning McLaughlin's transfer and was asked no questions about her *own* job. It certainly was not shown that her employment could be compared to that of Bennett,

and therefore not surprising that the Board did not expressly mention her in its analysis of alleged disparity of treatment. Under the circumstances, this was clearly not required.

The Union's comparison of Bennett with Roanna Meadows does not illustrate differing treatment. (Br. 28) Meadows could perform the work but had a problem of absenteeism.

It can be seen that few, if any, of the important facts in the record which concern the alleged violations of Section 8(a)(3) are in dispute. The Board and the Trial Examiner merely differed in the inferences drawn from the facts. It is the Board's findings which are to be examined here. The Intervenor submits that the record as a whole reveals substantial evidence in support of the Board's findings, including its inferences.

B. Substantial evidence on the record considered as a whole supports the Board's finding that the rule concerning maintenance men was adopted for legitimate economic reasons.

The Board found that the Company had not imposed a rule against "relaxation" by night shift maintenance employees as a pretext for disciplining those employees for union adherence. The Board found that maintenance work on the night shift was not being performed properly. This was supported in the record by the testimony of production manager Polley and other testimony that operators and supervisors complained of laxity by the maintenance men. There was no evidence to the contrary, and the Board found the poor work to be the cause of the rule enforcement.

Because of these problems, and as a part of its continuing effort to improve the poor night shift maintenance performance, the Company, through its night shift foreman

Payne, instructed the maintenance men to keep busy rather than to sit around talking to the girls. This applied to *all* maintenance men and, with the exception of Tom Beech, the Union sympathies of the maintenance men are not shown.

The Union principally relies upon the coincidence of the timing involved. (Br. 31) The renewed effort with respect to maintenance performance occurred on the same night that Beech first wore a Union button. Aside from this, the Union relies on the attempted transfer of Beech to day shift (which was rescinded when Beech merely said he could not work days); his assignment to another set of machines (as a part of the policy of rotating the men among sets of machines); and the placing of Beech under surveillance (which proved to be nothing more than enforcement of the rule requiring the men to work rather than sit). (Br. 31)

The Board examined all the facts and felt that they were not sufficient to justify an inference that the rule against "relaxation" was motivated by discriminating reasons. Instead, it specifically found that the evidence indicated that the rule was enforced for legitimate economic reasons. The Union disagrees with the inference, but the Board's decision is amply supported by substantial evidence in the entire record as a whole.

C. Substantial evidence in the Record considered as a whole supports the Board's finding that the company did not engage in improper surveillance.

At the hearing, the General Counsel attempted to prove that the Company had engaged in surveillance of employees as they entered and remained in its restrooms. The Board found that the General Counsel did not prove the allegations. It found that several years prior to the hearing a rule was enacted applicable to coilwinders that

two persons from the same group were not to go to the restroom at the same time. The rule was not applied to girls in quality audit. However, in April, 1966, two coil-winders, who were members of the Union Organizing Committee, complained of the exception of some girls and specifically named Branum and Robertson, also members of the Union committee. As a result, the rule was extended to include quality audit. There was testimony that thereafter Robertson was followed into the restroom, and she saw the foreman and his assistant sitting outside with a pencil and paper writing something every time a girl went into the room. The Trial Examiner found that the Company had engaged in illegal surveillance, but the Board appropriately labelled this as "sheerest speculation." It found it equally tenable to infer that any surveillance was for the purpose of enforcing the Company's lawful rule.

The Union argues that the Trial Examiner based his inference upon credibility resolutions but that plainly is not so. There is no difference in the facts as found by the Board and the Trial Examiner. Each examined the same facts but the Board found the Trial Examiner's conclusion totally without support. It specifically found that the General Counsel did not prove by a preponderance of the evidence that the Company engaged in unlawful surveillance. That finding is amply supported by the record. There was no evidence of what was being written down by the foreman when Robertson and Branum went to the restroom. Furthermore, Branum testified that something was written down when *any* girl went into the restroom. The Company submits that the Board properly concluded that no violation had been proven.

D. This case properly falls under the rule of *Universal Camera*.

The Union admits that *Universal Camera Corp. v. NLRB*, 340 U.S. 474 (1951), sets forth the general standard

by which the Court is to be guided, but argues that the Board's order was improper because of the weight that should be given the Trial Examiner's findings. The cases decided by this Court and cited by the Union, *Burinskas v. NLRB*, No. 18054, 55 LRRM 2300 (D.C. Cir. 1964), and *Retail Store Employees Union v. NLRB*, 122 U.S. App. D.C. 131, 360 F. 2d 494 (D.C. Cir. 1965), merely held that the Board's decision was "inadequate" to enforce the order in the one instance, and ambiguous in its treatment of credibility findings in the other. In the instant case, the Board has clearly examined the Trial Examiner's findings and expressly stated at length its reasons for rejecting his conclusions.

The other cases cited by the Union from other circuit courts of appeals all consistently hold that the test is whether the Board's findings and inferences are supported by substantial evidence on the record as a whole, including the findings of the trial examiner. *Greco v. NLRB*, 331 F. 2d 165 (3rd Cir. 1964), relied upon by the Union stated its holdings succinctly:

"We hold only that the findings of fact adopted by the Board simply do not support the conclusion which it seeks to infer." (331 F. 2d at 169)

None of the cases cited by Union is inconsistent with *Universal Camera*, or this Court's application of the rule of that case as illustrated by *Oil, Chemical and Atomic Workers International Union, Local 4-243 v. NLRB*, 124 U.S. App. D.C. 113, 362 F. 2d 943 (D.C. Cir. 1966). The Union's citations merely hold that the Board cannot reverse the Trial Examiner if the Board's action is unsupported by the record as a whole. Added weight may be accorded inferences of the Trial Examiner directly based upon factual credibility findings, but that situation is not presented to this Court, contrary to the Union's assertions. The "substantial evidence" test of *Universal Camera* is

applicable to this case, and provides the necessary authority for rejecting the Union's petition.

E. The Union's conclusion suggests relief outside the scope of the issues.

The Union's conclusion requests that the Board's decision be set aside and that the Board be instructed to issue an order consistent with the opinion of the Court, including reconsideration of the certification of the results of the election of May 12, 1966.

The parties to this case, including the intervening Company, entered into a stipulation of the issues presented to the Court, which stipulation was approved by the Court in its prehearing order dated July 3, 1968. The two issues concerned only alleged violations of Section 8(a)(1) and (3) of the Act, even though the Union's petition for review alleged error on the part of the Board in not finding interference with the election. Despite its stipulation, the Union has attempted to reinsert the election issue into the case in its conclusion to its brief. This is contrary to its earlier agreement and now outside the issues before the Court.

CONCLUSION

For the foregoing reasons, the Intervenor requests that the Union's petition be dismissed.

Respectfully submitted,

DONALD C. DUCK
JAMES S. HARAMY
DOUGLAS J. HILL
800 Union Federal Building
Indianapolis, Indiana
Attorneys for Intervenor

Of Counsel:

CADICK, BURNS, DUCK & NEIGHBOURS
800 Union Federal Building
Indianapolis, Indiana

IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, *Petitioner*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

SARKIS TARZIAN, INC., *Intervenor*

On Petition to Review an Order of
The National Labor Relations Board

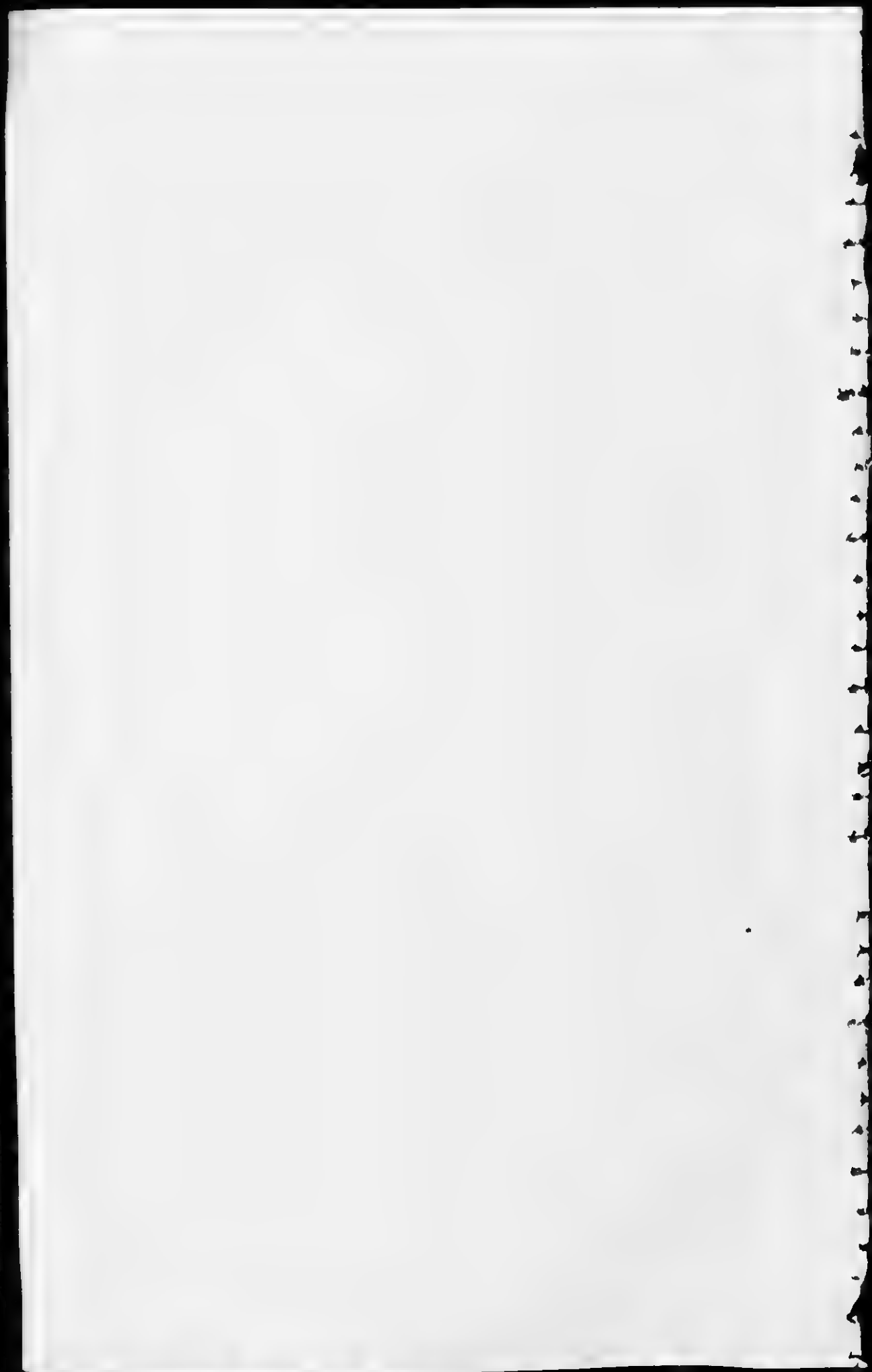
REPLY BRIEF FOR PETITIONER

United States Court of Appeals
for the District of Columbia Circuit

FILED OCT 7 1968

Nathan J. Paulson
CLERK

SHERMAN AND DUNN
LAURENCE J. COHEN
1200 -15th Street, N.W.
Washington, D.C. 20005
Counsel for Petitioner



IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21,932

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, *Petitioner*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent*

SARKES TARZIAN, INC., *Intervenor*

**On Petition to Review an Order of
the National Labor Relations Board**

REPLY BRIEF FOR PETITIONER

It will be the limited purpose of this reply brief to respond to certain factual assertions in the briefs of the Board and the Company and to correct the inaccurate description by those parties of some of the contentions set forth in our opening brief.¹

¹ As in our main brief, record references will follow the pagination of the original transcript before the Board. Page references to the Board's briefs before the Court are to the pages in the printed briefs.

ARGUMENT**Discharge of Agnes O. Felty**

Petitioner's main brief (pp. 14-18) has shown that the Company constructively discharged Felty by assigning her to a job it knew she was physically unable to perform and thereafter refused to reemploy her. Both the Board's brief (p. 12) and the Company's brief (p. 23) have attempted to divert attention from this showing by erroneously stating that our brief asserts that Felty was assigned to the same "job" from which she was forced to take medical leave in November 1965. From this they conclude that, since the April 1966 job complained of was a crimp job, rather than a solder job, the Union's argument is thus disposed of.

In point of fact, the contention contained at page 16 of our original brief went to Felty's placement directly between two soldering irons, rather than to her own job. Thus:

"... the crimp work to which she was assigned placed her directly between two employees working with solder irons and thus fully exposed to the harmful solder fumes! Indeed, this placed her precisely in the *situation* from which she had to take medical leave in November of 1965." (Emphasis added.)

In short, neither of the other briefs has answered the actual contention made, namely, that it was Felty's placement in between two employees working with solder irons, as in November of 1965, which made her continued work in that "situation" impossible.

Both of the briefs also misstate our contention with respect to the Company's use of "patterns." The Board's brief (n. 7, at p. 13) states that it is our contention that the Company had *no* patterns. The Company's brief (p. 24) claims that we would lead the Court to believe that the patterns are based upon seniority. Neither of these statements is correct. The actual nature of our contention, as

set forth at pp. 16-17 of our main brief, is that the patterns do exist but have generally been handled so casually and inconsistently that they cannot serve as a valid defense to the actions of the Company which are here in issue. Similarly, and contrary to the impression conveyed by footnote 7 of the Board's brief, no contention is made that Felty should have been assigned to a machine operators *pattern* on April 19. Rather, our contention is that, in view of the Company's flexible practices with respect to its patterns, Felty should have been assigned to a machine operators *job* at that time, even though she carried a crimp and solder pattern.

Nor does the Union contend, contrary to the Board's assertion to that effect (brief, p. 12), that the initial line change was a sham. The fact that even part of Felty's line was reestablished two weeks later with some assembly jobs which she could have performed was cited in our brief to demonstrate that the Company, in fact, had jobs which Felty could perform without difficulty from the solder fumes. Moreover, with respect to the job given Margaret Hopkins on April 19, neither of the other briefs denies that Felty had previously performed the very job given to Hopkins and had performed it well (R. 403).

The briefs of the Board and the Company are also noteworthy for what they omit. First, neither brief attempts to explain the "bum's rush" given Felty on April 25 (main brief, (pp. 6-7). Second, neither comments on or attempts to refute the importance of the fact that all three discharges here in issue occurred in the context of a severe labor shortage and of continuing efforts by the Company to obtain new employees and retain old ones. Finally, no mention is found in either brief of the Company's announced policy in this regard of permitting an employee who was unable to perform one job to try another so that he could remain with the Company.² It will be recalled that, unlike the

² See our main brief, at p. 4.

ARGUMENT

Discharge of Agnes O. Felty

Petitioner's main brief (pp. 14-18) has shown that the Company constructively discharged Felty by assigning her to a job it knew she was physically unable to perform and thereafter refused to reemploy her. Both the Board's brief (p. 12) and the Company's brief (p. 23) have attempted to divert attention from this showing by erroneously stating that our brief asserts that Felty was assigned to the same "job" from which she was forced to take medical leave in November 1965. From this they conclude that, since the April 1966 job complained of was a crimp job, rather than a solder job, the Union's argument is thus disposed of.

In point of fact, the contention contained at page 16 of our original brief went to Felty's placement directly between two soldering irons, rather than to her own job. Thus:

"... the crimp work to which she was assigned placed her directly between two employees working with solder irons and thus fully exposed to the harmful solder fumes! Indeed, this placed her precisely in the *situation* from which she had to take medical leave in November of 1965." (Emphasis added.)

In short, neither of the other briefs has answered the actual contention made, namely, that it was Felty's placement in between two employees working with solder irons, as in November of 1965, which made her continued work in that "situation" impossible.

Both of the briefs also misstate our contention with respect to the Company's use of "patterns." The Board's brief (n. 7, at p. 13) states that it is our contention that the Company had *no* patterns. The Company's brief (p. 24) claims that we would lead the Court to believe that the patterns are based upon seniority. Neither of these statements is correct. The actual nature of our contention, as

set forth at pp. 16-17 of our main brief, is that the patterns do exist but have generally been handled so casually and inconsistently that they cannot serve as a valid defense to the actions of the Company which are here in issue. Similarly, and contrary to the impression conveyed by footnote 7 of the Board's brief, no contention is made that Felty should have been assigned to a machine operators *pattern* on April 19. Rather, our contention is that, in view of the Company's flexible practices with respect to its patterns, Felty should have been assigned to a machine operators *job* at that time, even though she carried a crimp and solder pattern.

Nor does the Union contend, contrary to the Board's assertion to that effect (brief, p. 12), that the initial line change was a sham. The fact that even part of Felty's line was reestablished two weeks later with some assembly jobs which she could have performed was cited in our brief to demonstrate that the Company, in fact, had jobs which Felty could perform without difficulty from the solder fumes. Moreover, with respect to the job given Margaret Hopkins on April 19, neither of the other briefs denies that Felty had previously performed the very job given to Hopkins and had performed it well (R. 403).

The briefs of the Board and the Company are also noteworthy for what they omit. First, neither brief attempts to explain the "bum's rush" given Felty on April 25 (main brief, (pp. 6-7)). Second, neither comments on or attempts to refute the importance of the fact that all three discharges here in issue occurred in the context of a severe labor shortage and of continuing efforts by the Company to obtain new employees and retain old ones. Finally, no mention is found in either brief of the Company's announced policy in this regard of permitting an employee who was unable to perform one job to try another so that he could remain with the Company.² It will be recalled that, unlike the

² See our main brief, at p. 4.

Board, the Trial Examiner specifically judged the discharges against the backdrop of these important evidentiary factors.

Discharge of Reva Robertson

In answer to our discussion of the constructive discharge of Mrs. Robertson (pp. 18-21 of our main brief) both of the other briefs challenge our interpretation of her comments on the record, quoted at page 20 of our opening brief, as "sarcasm." Rather than belabor the point, it is submitted that the inflection and meaning for which we contend appear as clearly from the page as her words themselves.

It is also interesting to note that neither brief disputes that Robertson actually had a medical history concerning her contact with solder fumes. Nor is any explanation offered of why, since the Company gave Robertson a day to decide if she would take either of the proffered jobs, it did not bother to check her file during this time to verify her statement in this regard. This seems particularly strange in view of the Company's admitted need for employees, *supra*.

Discharge of Bobby Bennett

The issue of the validity of Bennett's discharge revolves around the question of disparity of treatment. At pages 21-23 of our opening brief, we have recited in some detail the specific instances revealing the disparity of treatment toward her. Without reexamining each of those instances, several points should be made. First, the Board's statement (n. 8, at p. 14) that, unlike Bennett, Sandra Laven "actively sought another job" is hardly responsive to our contention that Laven was invited during her very discharge interview to reapply later for another job (R. 149-150). For this reason, the Company's reference to the fact that Laven may have actually called the Company prior to being called by personnel department employee McCoy does not serve

to explain away the difference in treatment of Bennett and Laven at the time of their discharges. After Haynes' assurance to Laven that she would speak to someone in personnel to see if another job could be found for her, it is small wonder that Laven subsequently checked to see if such a job had been found. Neither brief disputes that no such assistance was offered Bennett. Similarly, the example of Karen White is important, as is foreman Trinkle's mysterious system of record-keeping, insofar as they reflect on the credibility of the latter's statements that, (1) employees who did not make the required rate were not retained and, (2) Bennett was not terminated for any reason other than her failure to make rate (opening brief, p. 23).

Harassment of Thomas Beech

With respect to the attempts of the Company and the Board's attorneys to explain away the treatment of Beech (Company brief at 29-30; Board brief at 10-11), it is well to recall here that even the Board felt obliged to admit that certain aspects of this incident created "some doubt as to the *bona fides* of the reason for the rule against 'relaxation,' . . ." (Board Decision at p. 3). It is also worthy of note that, in the Board's brief (at p. 10), the attempted transfer of Beech to the day shift has become merely an "offer" of a transfer. And, although its brief further states that the reason offered for transferring Beech is in no way impugned, it will be further recalled that production manager Polley gave as the asserted reason for the order to transfer Beech the belief that he was a "cam man." Yet, the record reveals in this regard that Beech had no such training and that the youngest cam man on the night shift, who should have been the one transferred if the Company was as strict about its seniority policy as it purports to be, was never asked to do so (R. 124-126, 136, 456-457).

Restroom Surveillance

Both of the other briefs defend the Board's finding of no surveillance in terms of a lawful and neutral rule against

two persons from the same group going to the restroom at the same time. Neither explains, however, why, if this is all that was involved, these Union advocates were followed into the restroom even when they went there individually, or why both were watched when performing their normal work operations (opening brief, pp. 12-13). Although the Company asserts (p. 31) that the Trial Examiner's conclusion in this regard is not based on credibility, the Trial Examiner expressly credited Branam's testimony that she was followed into the restroom by foreman Porter, "notwithstanding Porter's denial thereof, . . ." (p. 4 of Trial Examiner's Decision.)

CONCLUSION

For the reasons set forth at length in our opening brief, it is respectfully submitted that the Board's Decision is unsupported by substantial evidence in the record as a whole and that this Court is not simply being asked to reverse the Board where it has chosen between "two fairly conflicting views" under *Universal Camera*. The basic flaw in the Board's Decision under *Universal Camera* is its failure to recognize and apply in this case the principle announced there that, "The substantiality of evidence must take into account whatever in the record fairly detracts from its weight." 340 U.S. at 488. Moreover, the substantial evidence test is not satisfied simply because the Board has attempted in its Decision to justify its findings, contrary to those of its Trial Examiner.

Finally, Petitioner agrees with Company counsel that the only issues actually before this Court are the alleged violations of Sections 8(a)(1) and (3) of the Act. Nevertheless, it seems elementary that, if this case is remanded to the Board on those issues, some of which also comprise part of the representation case, it will be necessary, as well as appropriate, for the Board to reconsider the issues affect-

ing the election in the light of the remand by this Court. Petitioner submits, therefore, that its prayer for relief in its opening brief is proper and should be granted.

Respectfully submitted,

SHERMAN AND DUNN

LAURENCE J. COHEN

1200-15th Street, N.W.
Washington, D.C. 20005

Counsel for Petitioner

October 1968